

Barangaroo Delivery Authority Regulation 2015 Regulatory Impact Statement

11 May 2015

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Abbreviations

BDA	Barangaroo Development Authority
BRO	Better Regulation Office
CBD	Central Business District
CPI	Consumer Price Index
PINs	Penalty Infringement Notices
RIS	Regulatory Impact Statement
SHFA	Sydney Harbour Foreshore Authority

1. INTRODUCTION

Regulation: Barangaroo Delivery Authority Regulation 2015
Enabling Act: *Barangaroo Delivery Authority Act 2009*
Responsibility: The Honourable Mike Baird, MP
Premier

The Barangaroo Delivery Authority (BDA or the Authority) proposes to make a regulation under the *Barangaroo Delivery Authority Act 2009*.

The making of the regulation will produce a number of social and economic benefits and costs to government and the community. The *Subordinate Legislation Act 1989* therefore provides for the preparation of a Regulatory Impact Statement (RIS) prior to making the regulation.

A RIS is an assessment of all social and economic costs and benefits relating to the proposed regulation and other possible options to ensure that the approved regulation is the preferred course of action in achieving the policy objectives.

1.1 Approach used to prepare the RIS

The RIS was prepared in accordance with the *Subordinate Legislation Act 1989* and has followed the requirements of the Better Regulation Office (BRO) Better Regulation Statement (see below). The RIS will be finalised after consideration of feedback received following exhibition of the draft. Cost benefit analysis of regulatory options was completed using the NSW Government Guidelines for Economic Appraisal prepared by the NSW Treasury.

1.2 Better Regulation Principles

In accordance with the BRO's Guide to Better Regulation, this RIS also addresses the seven better regulation principles. These principles are:

1. The need for government action should be established
2. The objective of government action should be clear
3. The impact of government action should be properly understood by considering the costs and benefits of a range of options, including non-regulatory options
4. Government action should be effective and proportional
5. Consultation with business and community should inform regulatory development
6. The simplification, repeal, reform or consolidation of existing regulation should be considered
7. Regulation should be periodically reviewed and if necessary reformed to ensure its continued efficiency and effectiveness.

2. BACKGROUND TO THE REGULATORY PROPOSAL

2.1 Proposed Regulation

As set out in the Explanatory Note to the proposed Barangaroo Delivery Authority Regulation 2015, the Regulation:

- (a) regulates the use by the public of, and the conduct of the public on, the **public domain** (that is, the land identified as public domain on the *Barangaroo Headland Park and Public Domain Map*) including as follows:
 - (i) by regulating entry into the public domain,
 - (ii) by providing for the reservation of parts of the public domain for certain purposes,
 - (iii) by providing for the removal of persons from the public domain,
 - (iv) by prohibiting certain conduct in the public domain (including offensive conduct, removing and damaging vegetation and failing to observe signs),
 - (v) by regulating certain conduct in the public domain that requires the Authority's approval (including offensive behaviour, harming the environment, damaging or erecting structures, certain commercial activities, unsafe behaviour, conducting weddings and other ceremonies, cycling and skating, undertaking recreational activities, driving and parking vehicles and mooring or landing vessels), and
- (b) provides for the removal or confiscation of articles used in the breach of the Regulation, and
- (c) adds to the functions of the Authority relating to facilities, services and works in the public domain, and
- (d) provides for the determination of fees that may be imposed under the Regulation, and
- (e) provides for the appointment of authorised officers and specifies their powers, and
- (f) specifies the offences under the Regulation that can be dealt with by penalty notice (or "on-the-spot" fines), and
- (g) declares that a named map replaces an existing named map (by altering the area of the Barangaroo Headland Park).

2.2 Regulatory Making Powers *Barangaroo Delivery Authority Act 2009*

The *Barangaroo Delivery Authority Act 2009* provides for the making of a regulation.

Section 50 of the Act provides for:

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for or with respect to the following:
 - a) the functions of the Authority,
 - b) the fees and charges that may be imposed for the purposes of this Act,

- c) the procedures of advisory committees,
 - d) regulating the use by the public of, and the conduct of the public on, land vested in or managed by the Authority or public areas within Barangaroo,
 - e) regulating the use of facilities of the Authority and the provision of services by the Authority,
 - f) requiring the payment of fares or other charges for the use of any facility operated or service provided by the Authority,
 - g) authorising a person granted a lease, licence or other authority by the Authority to require the payment of fares or other charges for the use of any facility operated or service provided under the lease, licence or other authority,
 - h) conferring on the Authority any function that may be exercised by a council in relation to a public place.
- (3) The regulations may create an offence punishable by a maximum penalty of 20 penalty units.

Additionally the Act also allows for (a) the Authority to make an agreement with the Sydney Harbour Foreshore Authority (SHFA) for the exercise by SHFA of its regulatory powers under *Sydney Harbour Foreshore Authority Act 1998* in respect of the Barangaroo Headland park and other public domain areas at Barangaroo (Section 24); and (b) the Premier to make an order for the exercise of SHFA's powers for these areas (clause 2, Part 2, schedule 3 to the Act).

2.3 Need for Regulation

Barangaroo is a former container port on the western edge of the Sydney CBD. Barangaroo is owned by the NSW Government and managed by the BDA.

The BDA is charged with urban renewal at the site including transformation of the former port into a vibrant community of workers, residents and visitors. Half of all Barangaroo will be parkland and public open space including a continuous waterfront promenade linking Barangaroo South, Central Barangaroo and Barangaroo Headland Park. The waterfront promenade will link Walsh Bay to Darling Harbour and further to the ANZAC bridge.

Barangaroo South is a 7.8 ha mixed use commercial hub. The area will include three commercial office towers, residential apartments, an international hotel, shops, cafes and restaurants. The public domain area within Barangaroo South will be open to the public in stages, with the first stage scheduled for opening in July 2015.

Central Barangaroo is the 5.2 ha public and cultural precinct at Barangaroo. Central Barangaroo will include residential, commercial, retail, community, cultural and educational areas. Central Barangaroo will be the final area of the precinct to be developed. Construction of the Central Barangaroo waterfront promenade will be completed to coincide with the opening of the Headland Park in mid-2015.

Barangaroo Headland Park has a footprint of 5.7 ha and will open in July 2015. Some 5,000 tonnes of sandstone excavated from the Barangaroo point site has been used to create a naturalistic foreshore for the park. Barangaroo Headland Park includes 75,000 plants, shrubs and trees native to Sydney. The park will provide a place to relax, socialise and explore with bushwalks, picnic areas, walking paths, tidal pools, a cultural and exhibition space as well as direct access to the water.

To maximise the amenity of the site it will be open to visitors at all times. Like Darling Harbour, there will be no gates and fences at the Headland Park or around other parts of the public domain (apart from temporary fences around major staged events).

The BDA has prepared unofficial estimates of the number of visitors expected at Barangaroo:

- Barangaroo Headland Park – between 10,000 and 20,000 visitors per day without including periodic events such as New Year's Eve and Vivid Festival
- Across the entire Barangaroo site, including Barangaroo South and Central Barangaroo, the BDA is expecting 60,000 people per day and this includes 25,000 office workers once construction is complete
- Barangaroo South, on its own and when complete, will have a population of 23,000 workers, 2,500 residents and 33,000 visitors every day.

Barangaroo Headland Park and public domain will attract approximately 20 million visits per annum once fully developed – Table 2.1.

Table 2.1 Visitation Fully Developed, Barangaroo Headland Park and Public Domain

Source of Visitor	Visitation (person per year)
Barangaroo Headland Park (15,000 visits per day 365 days per year)	5,500,000
New Year's Eve	50,000
Vivid and other festivals	500,000
Daily visitors to the waterside promenade and other public open space at Barangaroo (35,000 visits per day 365 days per year)	12,500,000
Office workers at lunch, after work, etc. (4,000 visits per day 260 days per year)	1,000,000
Total	20,000,000

NB: By way of comparison nearby Darling Harbour attracts 25 million visitors per year and the lands managed by the Royal Botanic Gardens and Domain Trust attract 8.6 million visitors per year.

As a consequence of the large number of people forecast to visit the Barangaroo Headland Park and other public domain areas, measures are required to protect people and assets and ensure visitors have an enjoyable time. It is also considered important

to have enforceable rules than can be seen as a 'community contract' on how visitors may use the place in a fair and equitable way.

2.4 Statutory Objectives

The objective of the proposed regulation, consistent with Section 14 of the *Barangaroo Delivery Authority Act 2009*, is 'to develop and manage the Barangaroo Headland Park and public domain so as to encourage its use by the public and to regulate the use of those areas'.

The proposed Regulation is consistent with the objects of the Act which are to:

- Encourage the development of Barangaroo as an active, vibrant and sustainable community and as a location for national and global business;
- Create a high quality commercial and mixed use precinct connected to, and supporting, the economic development of Sydney;
- Facilitate the establishment of Barangaroo Point and public domain land;
- Promote the orderly and sustainable development of Barangaroo, balancing social, economic and environmental outcomes; and
- Create in Barangaroo an opportunity for design excellence outcomes in architecture and public domain design.

2.5 Relevant Stakeholders

Stakeholders relevant to the making of this regulation include the NSW community and various agencies of government, such as:

- Australian Institute of Photographers
- Boulderstone (construction of Barangaroo Headland Park)
- Boat Owners Association of NSW
- Bus and Coach Association (NSW)
- Botanic Gardens and Domain Trust
- Centennial Park and Moore Park Trust
- City of Sydney
- Lend Lease (developer of Barangaroo South)
- New South Wales Roads and Marine Services
- New South Wales Police Force
- PWP Landscape Architects (design Barangaroo Headland Park)
- Various registered personal trainers
- Skidmore Owings & Merrill (master plan for Barangaroo Central)
- Sydney Chamber of Commerce
- Sydney Festival
- Sydney Harbour Foreshore Authority
- Vivid Festival.

3. OPTIONS TO ACHIEVE THE POLICY OBJECTIVES

Specific options to address the policy objectives were identified:

1. Base Case – ‘Do Nothing’ and allow the Barangaroo Headland Park and other public domain areas to operate without a regulation. There would be no rangers with compliance powers; instead the BDA would rely on ‘education officers’ and voluntary measures to manage the site.
2. Proposed Regulation – including enforceable measures to address inappropriate personal conduct and ensure the delivery of public services. Enforceable measures are designed to protect Barangaroo assets and increase visitor enjoyment.
3. A More Restrictive Proposal – the proposed Regulation plus additional restrictions on activities and access to protect people and assets.

3.1 Base Case – Do Nothing

The base case is the situation that would exist if nothing additional were done to protect assets and visitors at Barangaroo. The BDA would need to rely on the NSW Police Force and employ its own education officers to communicate appropriate behaviour. Barangaroo would operate at lower levels of safety than nearby Darling Harbour.

Under the ‘do nothing’ base case the BDA could endeavour to protect people and assets and help ensure visitors have an enjoyable time at Barangaroo by imposing conditions of entry on visitors. Conditions of entry are used by shopping centres and others to establish contractual conditions with visitors, and at least in theory, the provisions of the proposed regulation could be made as Barangaroo conditions of entry.

However, in practice for conditions of entry to be enforceable against the public they would need to be simple and straightforward. Enforcement through the Local Court as trespass would be impractical. Large obstructive signage would be required and each of the proposed regulation provisions would need to be clearly signposted. Courts would need to be satisfied that all terms were clearly displayed and were reasonable. In practice, conditions of entry would not be able to cover the detail required in the proposed regulation. Simplification would be necessary and provisions would then be less than the proposed regulation. Rangers could not issue penalty infringement notices and enforcement would be difficult.

Furthermore, reliance on conditions of entry under the ‘do nothing’ base case would lead the BDA to greater risk of exposure to liability under the *Civil Liability Act 2002*. Relying on conditions of entry means that BDA has chosen to not implement a regulation. This could be considered as BDA electing to not exercise all its functions over the land. In the event of injury/loss, this leaves BDA open to criticism that it has not taken all reasonable measures to exercise its authority and functions.

BDA rangers and others would not be able to discourage undesirable behaviour without the proposed regulation restraining that behaviour.

BDA rangers and other authorised persons would be without authority to impose penalties for offences outlined in the proposed regulation.

Thus restrictions on offences such as dangerous behaviour and vandalism which are controlled with specific regulations in the neighbouring Darling Harbour and Royal Botanic Gardens could not be enforced by BDA rangers.

The responsibility for regulating such anti-social behaviour at Barangaroo would fall to the NSW Police Force. However, the police would also lose the authority to regulate undesirable behaviour of particular relevance to a harbour side park and public open space setting.

In the absence of a regulation the BDA would endeavour to meet the objectives of the Act using non-enforceable measures such as public education and voluntary codes of conduct. Its success with non-enforceable measures would be limited.

Use of other regulatory provisions

As part of the 'do nothing' approach, it was also considered whether the Authority could utilise existing regulatory powers belonging to SHFA, or the City of Sydney Council. Strictly speaking, this is not 'doing nothing' because regulatory provisions are being extended to new areas. However, it would avoid the need to draft a new regulatory instrument.

Whilst section 24 of the Act allows the Authority to make an agreement for SHFA to exercise its regulatory powers under the Sydney Harbour Foreshore Authority Act 1998 in respect of Barangaroo, some activities expected at Barangaroo Headland Park would however not be adequately addressed by SHFA's current powers and regulations. This is because of the different characteristics of the Barangaroo site as compared to most of SHFA's existing territory.

By way of example, the proposed regulation contains specific provisions that: address potential interference with the Barangaroo Point animal habitat, allow the driving or riding of vehicles to be regulated by oral direction, regulate the playing of golf, and prohibit the landing of helicopters and parachutes without approval.

The required regulatory provisions restricting the movement of vessels and small craft around Barangaroo will be different to those applying at Cockle Bay. In particular at Barangaroo vessels will be permitted to land temporarily without authorisation. Small craft such as kayaks will be prohibited from landing at Barangaroo without authorisation, due to the fact that the sandstone foreshore is not designed for easy access from the harbour.

Particular provisions will also be needed to allow restrictions on the number of persons in parts of the public domain at any time. Such powers are critical to holding a number of events planned throughout the year at Barangaroo.

Consideration has been given to allowing the City of Sydney to regulate and manage the Barangaroo public domain, using local council powers under the Local Government Act 1993. Similar concerns apply to this option as in relation to SHFA, set out above. The powers available the Local Government Act 1993 alone are not adequate for the same reasons as above, in particular in regulating a major urban parkland. The CEO of the City of Sydney Council has also specifically confirmed to the Authority that the City has no interest in maintaining the Barangaroo Headland Park.

3.2 Proposed Regulation

Under the proposed regulation there will be enforceable provisions to address personal behaviour, damage to assets, consumption of liquor, management of commercial activities, use of vehicles, closure of areas, public assembly, the maximum number of people in certain areas, enforceable penalty infringement notices (PINs), fees and charges.

Provisions contained within the proposed regulation address the following subjects: personal conduct; services, facilities and powers, and new powers, as explained below.

Personal Conduct

Personal conduct provisions include requirements for authorisation of activities and services at Barangaroo, the specification of prohibited personal conduct, consumption of liquor, weddings and other organised ceremonies.

Under the proposed regulation a person must not engage in activities with the potential to affect public enjoyment without authorisation from the BDA. These activities include, but are not limited to, selling articles or services, using loudspeakers, holding personal training classes/sessions, busking, camping, lighting a fire, operating a model aircraft, using a skateboard or bike or run other than on a path or road, having a dog off lead, mooring a vessel, conducting an assembly, fishing or using exercise equipment.

Persons must not damage a tree or building unless permitted to do so by the Authority, possess a firearm, use obscene language or fail to comply with a reasonable request aimed at securing good order. Consumption of liquor in any part of the public domain can be disallowed by the Authority's determination. Weddings and other organised ceremonies are not to be conducted outside of specific areas within the public domain at Barangaroo unless written consent is granted by the BDA and a fee is paid.

Services and facilities

The proposed regulation includes provisions allowing the BDA to regulate the parking of vehicles in the public domain, set aside land for use by buses, restrict traffic, control the speed of vehicles and provide authorised services. Authorised services might include public information, first aid, food and beverages, entertainment and commercial services. Infrastructure may include but not be limited to constructions for exhibitions, events and installations. The BDA may impose a fee or charge with respect to the provision of a service or facility in accordance with the proposed regulation.

Powers

Under the proposed regulation the BDA will have the authority to close any part of the public domain lands to the public, impose restrictions on entry, collect fees from persons for use of BDA lands or services, have the right to adjust those fees, impose conditions on the use of BDA lands, restrict the number of persons on parts of Barangaroo, specify the parts of Barangaroo that may be reserved, establish requirements to obey directions, remove obstructions, confiscate articles and require people to provide their name and address for the purposes of issuing penalty infringement notices.

3.3 A More Restrictive Regulatory Proposal

A further more restrictive regulatory option is also analysed. This option includes all measures associated with the proposed regulation plus (a) outright bans on certain activities that can be conducted with authorisation under the proposed regulation, and (b) closure of the Barangaroo Headland Park and walkway at night.

Activities that can be conducted with authorisation under the proposed regulation that would face an outright ban under a more restrictive regulatory proposal include:

- Selling articles - e.g. stalls at charitable fundraising events
- Public assemblies – e.g. for commemoration of events and milestones
- Fireworks – at official occasions
- Dogs - regardless of whether they are on a lead or not
- Exercise equipment – for what would have been authorised groups
- Alcohol – a blanket ban on alcohol consumption in the Barangaroo public domain.

In addition to an outright ban on activities a more restrictive regulatory proposal would prohibit public access and use of Barangaroo Headland Park and the contiguous public walkway between Darling Harbour and Walsh Bay at night. Consistent with the Royal Botanic Gardens, the Barangaroo Headland Park will be fenced, gated and access prohibited between sunrise and sunset.

Additional restrictions on activities and access are aimed at further protecting people and assets at the Barangaroo Headland Park and other public domain areas at Barangaroo.

This regulatory option will impose additional costs over the proposed regulation e.g. gates and fencing to prevent night time access and loss of revenues associated with activities that would otherwise have been authorised by the BDA.

4. REGULATORY IMPACT ASSESSMENT FRAMEWORK

4.1 Creating Benefits for the Public

Barangaroo Headland Park and the establishment of a new Harbour side walkway linking the twin entertainment and dining precincts of Darling Harbour and Walsh Bay will provide a range of recreational and educational benefits to the NSW community.

Visitors will be able to use the Barangaroo Headland Park as a place to relax, socialise and explore with bushwalks, picnic areas, walking paths, a cultural and exhibition space as well as direct access to the Harbour.

Visitors will be able to walk around the restored headland from the heritage wharves of Walsh Bay, past re-established bushland and down to the commercial hub of Barangaroo South and on to Darling Harbour.

Education opportunities will be afforded by the planting of indigenous species in the park and restoration of the sites heritage features. Heritage features will be interpreted through signage and stone inscription and include the rediscovered 1820's Munn's Slipway, the 1865 Cuthbert sandstone seawall, an early 1900's sewage pumping station, a 1903 sandstone seawall, and sandstone cliff faces carved during the industrial maritime era.

The overall value of public amenity benefits created at the Barangaroo site is significant. By way of illustration of these values, visitation benefits on their own without considering ecological and preservation values, are estimated at \$76 million dollars per annum (a per visit value of \$3.80 estimated for the Parramatta Park Trust Regulation RIS 2012¹ and multiplied by an annual visitation at maturity of 20 million people).

¹ In a standalone economic analysis prepared to support the Parramatta Park Regulation RIS 2012, Gillespie Economics derived per visitor benefit using the rigorous and widely reviewed Travel Cost Method (see James and Gillespie 2000). Surveys were used to establish the profile of visitors and cost incurred to enjoy Parramatta Park was used as a proxy for economic welfare. The study found that 40% of visitors lived within 15 minutes of the Park; 46% of visitors lived within 30 minutes of the Park and the balance lived more than 30 minutes away. This visitor profile and therefore cost incurred to enjoy the park is similar to the visitor profile anticipated at Barangaroo i.e. usage by people from within close proximity of Barangaroo plus those who are prepared to travel to enjoy the Harbour side experience. The Gillespie Economics estimate of \$3.40 per visitor has been updated to \$3.80 per visitor to reflect changes in CPI and hence travel cost.

Over time and with appropriate management these benefits will be even more important as more people live, work and visit the Sydney CBD.

4.2 Diminishing Value of Benefits to the Public

Critical to the creation of public benefits at Barangaroo is appropriate visitor management with the power to modify the behaviour of a minority of individuals. Experience in similar locations (Darling Harbour, Royal Botanic Gardens, Parramatta Park, etc.) has shown that the actions of a small number of visitors necessitates intervention by rangers and that these rangers need to have the power to enforce a change in behaviour. In the absence of this power the actions of a small number of individuals will detrimentally affect the safety of people, park and walkway assets, and in so doing diminish the enjoyment of other visitors.

The persistence of anti-social, destructive or unwarranted behaviour is in conflict with the objectives of the *Barangaroo Delivery Authority Act 2009* which sets out to 'encourage its use by the public'. In all cases, anti-social, destructive or unwarranted behaviour detract from the experience of others visiting Barangaroo and reduce the overall benefit that the public obtain.

In this regard, inappropriate behaviour by a few effectively imposes a cost on society, similar to that of an 'externality'. The BDA will therefore attempt to discourage individuals from engaging in these activities, thereby maximising the value that the community will derive from the enjoyment of the public amenity at Barangaroo. The implementation of the proposed regulation, supported with an appropriate compliance regime and penalties, will enable potential offenders to consider the costs of their inappropriate behaviour. The proposed regulation and penalties allow the BDA to reduce these social costs by providing a direct financial deterrent.

4.3 Identification of Costs and Benefits for Each Option

The above discussion on generating and maintaining benefits to the public with the proposed regulation in place allows a framework to be developed for reporting and analysing government and community costs and benefits associated with regulatory options – Table 4.1.

Table 4.1 Costs and Benefits of BDA Regulatory Options

Option	Costs	Benefits
Base Case <ul style="list-style-type: none"> • 'Do nothing' • Extend SHFA regulation • Use conditions of entry 	<ul style="list-style-type: none"> • Damage to Barangaroo park and walkway assets with associated repair and maintenance costs • Reduction in the public's enjoyment of Barangaroo park and walkway assets • Cost of public education and voluntary codes of conduct to serve as an alternative to enforcement powers (including 	<ul style="list-style-type: none"> • Comparable to the proposed regulation, there is less burden on Government resources as no new regulation instrument is required.

	<ul style="list-style-type: none"> rangers) Reduced ability to generate revenue from events 	
Proposed Regulation	<ul style="list-style-type: none"> Regulation administration and compliance costs. 	<ul style="list-style-type: none"> A reduction in damage to Barangaroo park and walkway assets An increase in the public's enjoyment of Barangaroo Savings on public education and voluntary codes of conduct Additional revenue associated with sale of services.
More Restrictive Proposal	<ul style="list-style-type: none"> Regulation administration and compliance costs – consistent with the proposed regulation plus additional costs associated with more restrictive measures including further restriction of activities and gates and fences to prevent night time access Additional costs to those who would like to sell articles, participate in public assemblies, enjoy fireworks, bring dogs on leads, consume alcohol on authorised occasions and access Barangaroo at night. 	<ul style="list-style-type: none"> The potential for additional protection for people and assets over that achieved with the proposed regulation.

Analysis of each option is presented in the following chapters.

5. BASE CASE – DO NOTHING BENEFIT COST ANALYSIS

The *Barangaroo Delivery Authority Act 2009* itself does not allow the BDA to prescribe the types of behaviour considered acceptable in the Headland Park and other public domain areas of Barangaroo, especially relating to matters of public safety and property violations. Without the proposed regulation, the BDA is unable to impose any penalty for offences, which would act as a deterrent for such behaviour.

5.1 Costs – Base Case

Damage to Barangaroo Assets

Damage to the Barangaroo Headland Park, the walkway and other public domain assets can be expected (e.g. damage to trees and native plants in the Barangaroo Headland Park). Associated with this damage will be an increase in repair and maintenance costs.

Reduction in the Public's Use and Enjoyment of Barangaroo

Anti-social behaviour at Barangaroo will detract from enjoyment of the Headland Park, the walkway and other public domain assets. Fewer visitors and residents will feel safe in the precinct and as a consequence they will not visit Barangaroo.

Cost of Public Education and Voluntary Codes

In the absence of capacity to impose penalties and enforce behaviour that is socially acceptable, the BDA may incur costs to educate members of the public on what is and isn't acceptable in a public park and walkway and develop and communicate voluntary codes of conduct through its rangers. The BDA will incur considerable cost persuading large numbers of visitors to comply with voluntary measures and even with this investment, damage to Barangaroo assets and a reduction in public enjoyment may occur.

Diminished Ability to Generate Revenue from Events

The absence of a regulation will diminish the BDA's ability to generate revenue from short-term events such as weddings. In the absence of the proposed regulation there will not be an efficient mechanism to allow short term allocation of Barangaroo land to a single group or to collect a fee for this exclusive right. The BDA will be limited to holding a smaller number of functions in its capacity as landowner.

Even with the rigorous use of conditions of entry, function numbers will be limited. In the nearby Royal Botanic Gardens the hiring of land for events generates more than \$2 million per annum. While this estimate is not appropriate for the newer and smaller Barangaroo Headland Park, some revenue will be foregone under the base case due to the difficulty of hosting events such as weddings.

Loss of this anticipated revenue under the base case will reduce the BDA's capacity to perform its functions outlined under the Act and is likely to impact maintenance and visitor enjoyment of the site.

5.2 Benefits – Base Case

Less burden on Government resources as no new regulatory instruments are required.

5.3 Benefit Cost Analysis – Base Case

The base case is not able to deliver the objectives of the Act (i.e. protect people and assets and encourage visitor enjoyment of Barangaroo) and as a consequence it is rejected.

6. PROPOSED REGULATION BENEFIT COST ANALYSIS

Many of the community and government costs incurred under the base case are benefits under the proposed regulation.

6.1 Costs – Proposed Regulation

Regulatory Administration and Compliance Costs

Security rangers will be required to communicate and enforce behavioural requirements consistent with the proposed regulation at Barangaroo. Staff were required under the base case to communicate voluntary measures to visitors so consequently no additional staff are required under the proposed regulation. However, staff with enforcement powers are more likely to be successful in their endeavours.

Under the proposed regulation costs are incurred by the BDA training security rangers in the requirements of the regulation, establishing and maintaining administration systems, processing and on rare occasions prosecuting penalty infringement notices. These costs equate to approximately one and a half FTE employee per annum, a cost of \$150,000 per annum.

6.2 Benefits – Proposed Regulation

Reduction in Damage to Barangaroo Assets

Trained BDA rangers with the power to intervene and prevent activities that threaten or damage Barangaroo assets will diminish damage caused under the Base Case and assist with delivery of the objectives of the Act. Protecting assets for the community is one purpose of this policy intervention. Reduction in asset damage at Barangaroo compared to the base case will also manifest itself in a reduction in the cost of repairs and maintenance. Advice from the nearby Royal Botanic Gardens is that removal of their regulation and the ability to manage people in the Gardens would increase repair and maintenance costs on trees, buildings, fences, statues, sculpture, memorials, fountains, furniture, etc. by \$1 million per annum. This data has been used to estimate the saving in cost from a reduction in damage to Barangaroo assets – a saving of \$1 million per annum.

An Increase in Public Use and Enjoyment of Barangaroo

Control of anti-social, dangerous and undesirable behaviour under the proposed regulation will increase the public's enjoyment of Barangaroo and annual visitation will grow at a faster rate than under the Base Case – Table 6.1.

Table 6.1 Visits to Barangaroo – Base Case and Proposed Regulation

Option	2016	2017	2018	2019	2020
Proposed Regulation					
Visitor numbers (millions of visits) [#]	5.0	10.0	15.0	18.0	20.0
Base Case					
Visitor numbers (millions of visits) [*]	5.0	9.0	13.5	16.0	17.5
Net increase in visitors associated with the Proposed Regulation	0	1.0	1.5	2.0	2.5
Benefit to additional visitors (\$'million)⁺	0	\$3.8	\$5.7	\$7.6	\$9.5

Based on the estimate of a fully developed site supplied by BDA and explained in Section 2.3 of this RIS
* Based on declines in visitation forecast in the Royal Botanic Gardens and Domain Trust in the absence of their visitor management regulations http://www.rbgsyd.nsw.gov.au/about_us/legislation/regulation2013
+ Additional benefit to visitors estimated using a per visitor benefit of \$3.80 prepared for the Parramatta Park Trust Regulation RIS 2012 multiplied by the increase in annual visitation.

Savings on Voluntary Measures

Under the base case and in the absence of capacity to impose penalties and enforce behaviour that is socially acceptable, a cost is incurred to educate members of the public on what is and isn't acceptable in a new Harbour side park and walkway and develop and communicate voluntary codes of conduct. While this approach is to some degree useful, the absence of regulation does not allow this ideal to be enforced.

Savings are made under the proposed regulation when fewer voluntary measures such as educational leaflets and displays, costing an estimated \$200,000 per annum, are no longer required – socially acceptable behaviour is realised under the proposed regulation through the rarely used power to impose on-the-spot fines.

Additional Revenue Associated with Events

The proposed regulation allows the BDA to generate revenue from short-term events such as weddings. This revenue will assist the BDA to perform its functions outlined under the Act including park and walkway maintenance. Revenue from events is forecast to contribute approximately \$1.5 million per annum.

6.3 Benefit Cost Analysis – Proposed Regulation

The proposed regulation addresses BDA statutory objectives – it provides an effective tool for protecting people and assets and increasing the enjoyment of visitors. Benefit cost analysis results show a positive net present value and benefit cost ratio for the NSW community of more than 12.

7. MORE RESTRICTIVE REGULATORY PROPOSAL BENEFIT COST ANALYSIS

In addition to the community costs and benefits incurred under the proposed regulation, additional benefits and costs are incurred under a more restrictive regulatory proposal.

7.1 Costs – More Restrictive Regulation

The more restrictive regulatory proposal requires prohibition of activities permitted with authorisation under the proposed regulation and closure of the Barangaroo Headland Park and walkway at night. All costs associated with the proposed regulation remain relevant with the addition of:

- Administrative costs – costs will be incurred liaising with community groups and individuals regarding the outright prohibition on activities such as selling articles, public assemblies, fireworks, dogs on leads, exercise equipment and

alcohol consumption. One half FTE employee is required to provide this ongoing liaison, an annual cost of \$50,000.

- Gates and fences – required to prevent access to Barangaroo Point after sunset and before sunrise. Gates and fences would need to maintain the aesthetic of the development and are expensive. A cost of \$1 million installed with no ongoing maintenance cost is assumed.
- Rangers – no change in ranger cost over both the base case and the proposed regulation. Even though Barangaroo Headland Park is closed after sunset ranger patrols are required to prevent illegal access.
- Visitor enjoyment – visitor enjoyment would be diminished under a more restrictive regulation. A large number of community groups and individuals are expected to apply for authorisation for a range of special use activities under the proposed regulation. Furthermore, visitors are expected to use the Barangaroo walkway linking the twin entertainment precincts of Walsh Bay and Darling Harbour at night and the Barangaroo Headland Park is expected to be popular during evening special events.

Visitor profile under both the proposed regulation and the more restrictive regulation are shown in Table 7.1.

Table 7.1 Barangaroo Visitation – Proposed and More Restrictive Regulations

Source of Visitor	Proposed Regulation Visitation (person per year)	More Restrictive Reg. Visitation (person per year)
Barangaroo Headland Park (15,000 visits per day 365 days per year)	5,500,000	3,000,000 (assumes 5,000 visits per day are after sunset and 15,000 visitors per weekend enjoy a community or private event no longer permitted)
New Year's Eve	50,000	0 (Park closed)
Vivid and other festivals	500,000	0 (Park closed)
Daily visitors to waterside promenade and other public open space (35,000 visits per day 365 days per year)	12,500,000	12,500,000 (No impact)
Office workers at lunch, after work, etc. (4,000 visits per day 260 days per year)	1,000,000	1,000,000 (No impact)
Total	20,000,000	16,500,000

7.2 Benefits – More Restrictive Regulation

A more restrictive regulation was developed to offer additional protection for people and assets over that achieved with the proposed regulation. Prohibition of activities that are to be managed through authorisation under the proposed regulation and closure of the park and walkway at night may further reduce the risk of anti-social behaviour, protecting people and assets. The cost of enforcing these additional provisions will be a reduction in Barangaroo visitation of approximately 3.5 million people each year (Table 7.1).

7.3 Benefit Cost Analysis – More Restrictive Regulation

Under the more restrictive regulation fewer visitors enjoy Barangaroo than either the proposed regulation (20 million per annum) or the base case (17.5 million per annum). Furthermore the more restrictive regulation imposes additional costs over both the base case and the proposed regulation (foregone event revenue for the BDA of \$1.5 million per annum under the proposed regulation and gate and fencing costs of \$1 million under both the proposed regulation and the base case). The benefit cost ratio for this third option is less than that achieved for the proposed regulation. The more restrictive regulation only partially meets regulatory objectives – fewer people are encouraged to enjoy Barangaroo. As a consequence the more restrictive regulation is rejected.

8. COMMUNITY CONSULTATION STRATEGY

Stakeholders listed in Section 2.5 will be forwarded a copy of the draft regulation and draft RIS for comment and to inform decision-making and any further amendments before the regulation is finalised.

In addition the following consultation is proposed:

- Posting of intention to remake the regulation and the availability of a draft RIS in the NSW Government Gazette
- Public notices in NSW newspapers
- Use of the NSW Government's 'Have your say' website – www.haveyoursay.nsw.gov.au
- Posting of the draft RIS on the Barangaroo Delivery Authority website
- Notification of the proposal and links to draft documents through the Facebook page for the Barangaroo Delivery Authority
- Preparation and distribution of a DL sized flyer explaining the making of a regulation and the changes proposed. The flyer will be distributed via the Barangaroo Delivery Authority reception and relevant staff.

9. CONCLUSIONS

The proposed regulation addresses the BDA's statutory objectives and delivers the greatest net benefit to the NSW community. The proposed regulation is preferred.

10. REFERENCES

Barangaroo Overview Fact Sheet September 2014 www.barangaroo.com

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