

# Joint Taskforce: Food Delivery Rider Safety

SafeWork NSW and  
Transport for NSW

1 April 2021





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# Introduction

In November 2020, the Minister for Better Regulation and Innovation, the Hon. Kevin Anderson, and the Minister for Transport and Roads, the Hon. Andrew Constance, announced the establishment of a Joint Taskforce (Taskforce) to explore the recent deaths of food delivery riders and identify safety improvements for the industry. The Taskforce commenced on 1 December 2020 with representatives from SafeWork NSW, Transport for NSW (Centre for Road Safety), NSW Police, NSW Fair Trading and Liquor & Gaming NSW. Jointly by SafeWork NSW and Transport for NSW, the Taskforce has convened specific Taskforce meetings on five occasions between December 2020 and March 2021.

When the Taskforce was established Terms of Reference were developed and made available on the SafeWork NSW website. This document outlined the following delivery stages for the Taskforce:

- Stage 1 – Roundtable Forum
- Stage 2 – Investigation and Development of Implementation Plan
- Stage 3 – Compliance Program
- Stage 4 – Reporting

This final report meets the requirements of Stage 4 of the deliverables and will outline the outcomes from each of the operational stages. This report delivers evidence-based recommendations that will be provided to the Minister for Better Regulation, the Hon. Kevin Anderson and the Minister for Transport and Roads, the Hon. Andrew Constance for their consideration. Although the Taskforce is now complete, the recommendations provided in this report will look to promote ongoing work by the NSW Government to ensure continual necessary improvements occur within this industry sector.



# Stage 1: Roundtable Forum

## Summary & Outcomes

The Forum was held on the 17 December 2020 and was attended by key stakeholders including: Food Delivery Platforms; Food Delivery Riders; Rider Advocate Associations including Unions; Overseas Student Associations; the Restaurant & Catering Industry Association, as well as Bicycle NSW; Sydney City Council; NSW Police; Transport for NSW; and SafeWork NSW. There were 59 participants at the forum that attended either in person or remotely (due to COVID-19 restrictions and stakeholders located interstate).

Dr Peta Miller was engaged to facilitate the Roundtable. In the week prior to the session she conducted detailed phone interviews with stakeholders to establish the key areas of concern and identify possible solutions for safety improvements in the industry.

The first part of the agenda saw presentations from Better Regulation, SafeWork NSW, The Centre for Road Safety and the Centre for Work, Health and Safety. This enabled regulators to provide clear messaging to the industry on health and safety obligations and expectations of what compliance looks like.

Dr Miller then presented an overview of the contextual factors, risks and possible control measures identified by the stakeholders, as well as a list of suggested activities including possible regulatory and non-regulatory measures. At the conclusion of the forum, stakeholders committed to the creation of a Food Delivery Riders Industry Action Plan (IAP) to be developed by the Industry and supported by the Joint Taskforce.

Facilitated by SafeWork NSW, the development of the IAP is not included in the Taskforce Terms of Reference and is a product of the collaboration between its partners: Food Delivery Platforms; Food Delivery Riders; Rider Advocate Associations including Unions; Overseas Student Associations; the Restaurant & Catering Industry Association, as well as Transport for NSW; and SafeWork NSW.

The IAP identifies five priority areas. The partner actions aligned to these areas aim to improve the health and safety of riders. These were compiled through a series of interviews, followed by group workshops where partners shared strategies and provided opportunities for collaboration.

A final and more condensed Roundtable Forum occurred on 8 April 2021 to present the final version of the IAP and to provide key stakeholders with outcomes of this Taskforce.



# Stage 2: Investigation and Development of Implementation Plan

## Summary & Outcomes

SafeWork NSW and Transport for NSW representatives collaborated to correlate and review all available incident and crash data relating to food delivery riders. In addition, this process included NSW Police providing supplementary incident information which they held from attending a number of crashes involving food delivery riders. This information and analysis led to the development of an intelligence report, which will be submitted with this final report to the relevant Ministers for information.

During this stage, the Taskforce examined the potential causation of trauma and what appropriate mitigating factors could have been in place to prevent the trauma. Additionally, this process examined gaps in current business models of operators relating to WHS. This analysis formed the basis of the *Guide to Managing WHS in the Food Delivery Industry*, which was developed and released to industry for consultation on 8 February 2021.

A analysis of the available data and the preparation of the intelligence report informed the development of the Implementation Plan including a deployment schedule which was utilised in Stage 3 of the Taskforce to ensure the compliance activity was intelligence led.

The Implementation Plan contained the following phased approach and deployment schedule:

### **Phase 1 - Engagement with PCBUs**

The first phase looked at whether industry had made changes to their current operating models since the Taskforce was established. It also included the provision of the draft Guide to Managing WHS in the Food Delivery Industry to key industry stakeholders for comment. As part of this engagement, SafeWork NSW examined if there were any ongoing industry knowledge gaps on WHS obligations with platform, riders and restaurateurs. This phase also provided an opportunity for the NSW Government to inform PCBUs of the upcoming compliance activity.



## Phase 2 – Compliance

This phase deployed SafeWork NSW inspectors to congested areas where the data suggested they may be problematic in this industry. Inspectors were tasked to complete a checklist with food delivery riders to better understand their capability and knowledge around compliance requirements. If significant issues were identified with the riders, restaurateurs or the platforms, SafeWork NSW were able to exercise their powers to issue appropriate regulatory notices to assist in changing industry behaviour and promoting compliance (this could include improvement notices and/or warnings).

## Phase 3 – Enforcement

This stage proceeded as a need for escalated compliance activity and stronger sanctions were identified in Phase 2. This involved a joint enforcement operation with NSW Police and SafeWork NSW focussing on areas of concern that have been identified from the previous phase. This included compliance with road rules which NSW Police will coordinate and issues such as personal protective equipment and systems of work will be the focus of the SafeWork NSW activity. Recommendations have been included for this activity to be continued by both NSW Police and SafeWork NSW.

## Deployment Schedule

Phase	Activities	Dates (2021)
<b>Phase 1 – Engagement</b>	<ul style="list-style-type: none"><li>• Draft guidance material released for consultation with industry.</li><li>• Meetings to be held with the relevant stakeholders to discuss guidance and actions moving forward.</li></ul>	1 February – 12 February
<b>Phase 2 – Compliance</b>	<ul style="list-style-type: none"><li>• SafeWork NSW to conduct compliance field activities to occur at peak time in high risk areas to test compliance and take necessary regulatory action.</li><li>• Issuing of improvement notices and/or warnings to PCBU's that are failing to comply with WHS legislation.</li></ul>	13 February – 27 February
<b>Phase 3 – Enforcement</b>	<ul style="list-style-type: none"><li>• Joint operation with NSW Police to test compliance with WHS Legislation and NSW Road Rules with a view to apply a stronger enforcement approach where non-compliance is detected.</li><li>• Potential prosecution action to be considered for current investigation matters.</li></ul>	13 March

# Stage 3: Compliance Program

## Summary & Outcomes

As part of the development of the intelligence profile during Stage 2 of the Taskforce, locations with high numbers of bicycle and motorbike crashes involving food delivery riders were identified. These areas were the subject of compliance deployments during Stage 3 and included: Haymarket; Surry Hills; Potts Point; Bondi; Bondi Junction; Newtown; Parramatta; and Bankstown.

The deployments highlighted a number of key safety observations which included:

- Helmets and their compliance
- Riding in a safe manner
- Using a device when riding
- Breaking road rules when riding
- Roadworthiness of vehicle and the use of non-compliant e-bikes.

In total SafeWork NSW conducted 214 observations of food delivery riders and 101 interactions with individual food delivery riders during Stage 3 of the Taskforce. In the final phase of the compliance program SafeWork NSW issued 28 Warning Notices to food delivery riders. Warnings were issued for failure to use/wear adequate PPE and/or a failure to adhere to a safe system of work which poses a risk to health and safety.

Additionally, SafeWork NSW has issued seven (7) Improvement Notices to food delivery platforms based on evidence collected during Stage 3 of the Taskforce.

These Improvement Notices were issued to food delivery platforms pursuant to section 191 of the *Work Health and Safety Act 2011* (WHS Act).

These notices were issued for section 19 of the WHS Act (primary duties) and clause 39 of the WHS Regulation (information, training and instruction), due to the inadequate provision of instruction and information provided to workers about the risks associated with riding generally, and riding in and around vehicle and pedestrian traffic.

It was noted that between 13 February and 13 March 2021, riders (being workers whom are 'caused to be engaged' by the food delivery platforms), were observed by Inspectors to be riding: with inadequate high visibility clothing; on footpaths; across pedestrian crossings; e-bikes that were non-compliant; wearing hat/caps under their helmet; in unsafe footwear (sandals, sliders etc); on bikes not fitted with the required lights/reflectors; across light rail tracks; while using hand-held mobile phones; and on the left-hand side of buses and heavy vehicles.



# Recommendations

The following outlines all recommendations that have been made by the Taskforce at the conclusion of the Taskforce deliverables. These recommendations are evidence-based and support ongoing improvement in compliance of this industry sector. These recommendations will look to promote compliant behaviours within the sector and further protect riders from death or serious injury.

## Recommendation 1

To assist with ongoing compliance within the sector SafeWork NSW to issue a quarterly data analysis (as of July 2021) of notifiable incidents reported to SafeWork NSW during the previous quarter. Data analysis to be issued to key stakeholders (Industry Action Plan participants) including platforms to assist continual improvement of compliance within the industry. The data will assist the regulators and the industry to understand areas that require further improvement.

## Recommendation 2

To support ongoing compliance within the sector, SafeWork NSW is to conduct future compliance monitoring of the sector to test compliance to WHS legislation and to ensure improvement to levels of compliance within the industry are occurring. This activity may include the issuing of warnings and/or improvement notices as required.

## Recommendation 3

SafeWork NSW to finalise the Guide to Managing WHS in the Food Delivery Industry and make publicly available to support education of best practice WHS within this industry sector. Further to this, SafeWork NSW will develop user-friendly fact sheets with key messaging from the Guide, in multiple languages to cater to riders from non-English speaking backgrounds.

## Recommendation 4

The NSW Better Regulation Division to consider options for any potential improvements to current WHS legislation to assist the regulator (SafeWork NSW) to have the necessary regulatory tools to drive compliance within this industry sector.

## Recommendation 5

Transport for NSW to continue to support the implementation of the Industry Action Plan through the provision of expertise and relevant subject matter resources targeting the following priority areas:

- Improving rider visibility
- Improving road safety knowledge
- Improving e-bike information
- Improving enforcement
- Improving infrastructure

## Recommendation 6

SafeWork NSW to facilitate the monitoring and reporting of agreed partner activity within the Industry Action Plan for 12 months from its commencement.

## Recommendation 7

NSW Police to conduct ongoing enforcement activities targeting food delivery riders to ensure compliance with NSW Road Rules.

## Recommendation 8

SafeWork NSW to test compliance with Improvement Notices issued under Section 191 of the *Work Health and Safety Act 2011* issued on 23 March 2021 with a compliance date of 14 April 2021.

## Recommendation 9

Transport for NSW will develop guidance on delivery bags that will be communicated through the Taskforce webpage, Transport for NSW website and other means of communication to Industry. The guidance material and information will outline the necessary requirements to improve visibility and will include the following:

- Delivery bags to be potentially made entirely of retro-reflective material
- Delivery bags to be fluorescent in colour, e.g. yellow, orange or light green
- Delivery bags to have reflective strips affixed to all visible parts of the bag, including the front, the whole width to the rear and sides of the bag, as well as on the straps facing the front if not made entirely from retro-reflective material.

Have bands on delivery bags made from compliant reflective materials and/or to meet the AS/NZS 1906.4:2010 High visibility materials for safety garments standard.

## Recommendation 10

Transport for NSW to provide information to food delivery platforms to ensure that food delivery riders are using vehicles, including e-bikes, scooters and motorcycles that comply with relevant regulations and standards.

