

STAYSAFE 30

PEDESTRIAN SAFETY. III. BICYCLE COURIER ACTIVITIES IN THE SYDNEY CENTRAL BUSINESS DISTRICT

**Report 3/51
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CHAIRMAN'S FOREWORD

A truism in the courier transport industry is "Cif time is money, speed is profitC". This observation underscores this report into the activities of bicycle couriers in the Sydney central business district, where the speed of cycle movements in pedestrian areas and on roadways, and the disregard of cyclists for traffic law have been highlighted as major issues of concern.

The activities of bicycle couriers clearly represent a safety issue of importance to pedestrians and other road users in the Sydney central business district. The development of a new industry associated with the rapid movement of documents and other materials reflects the demands of business and highlights the need for clear strategic thinking about the management of road and pedestrian traffic in downtown city areas. While it has been a difficult exercise indeed to gain insight into the nature of bicycle courier activities and the safety problems associated with this new industry, it is clear that the actions of the bicycle couriers of the Sydney central business district pose particular challenges to the agencies and organisations charged with the responsibility of managing traffic movements involving competing demands for priority and of developing and enforcing traffic law and regulation.

There is no 'quick fix' that can be used to solve the problems associated with bicycle couriers immediately and completely. Rather, STAYSAFE has sought to provide an overview of the bicycle courier industry in all its aspects, and to identify a number of areas where appropriate and careful intervention should yield improved behaviour by bicycle couriers and a safer downtown Sydney community.

STAYSAFE has made recommendations that, on the evidence available to its Members, should be well received by those associated with the bicycle courier industry, or with responsibilities in the administration of transport matters in New South Wales and with the safe and efficient management of the Sydney central business district. It is STAYSAFE=s view that the major growth of the bicycle courier industry occurred in the early 1990's as a result of the industrial environment in which the courier industry is regulated. With expected changed in industrial regulation relating to bicycle courier activities, it seems that the excesses that have caused such public and official concern may be reduced. The institution of the other processes as recommended by STAYSAFE will complement and extend the changes expected to arise from the industrial relations environment.

Some recommendations provide for immediate action to limit the risks associated with bicycle courier activities. Other recommendations are derived from a longer term view, and provide for the availability of timely and appropriate information about bicycle courier activities as the downtown Sydney area develops and grows into a truly accessible city. In particular, STAYSAFE has recommended a revision of the penalties applicable to bicycling offences, and

the creation of new offences specific to the use of bicycles for commercial purposes.

STAYSAFE wishes it to be clearly understood that the focus of this report and its recommendations is on bicycle courier activities, that is, where a person is performing work by conducting a commercial activity involving the transport of goods for profit. STAYSAFE recognises it is possible to advance an argument that children riding a bicycle to deliver newspapers on a paper run, or similar such activities, can be considered to be performing work of the same nature as bicycle courier work. However, STAYSAFE believes that regulatory action regarding the bicycle courier industry should ensure that children's paper runs and similar activities are excluded.

Acknowledgments

As Chairman of the STAYSAFE Committee, I am pleased to have the able and cogent advice from my Parliamentary colleagues and Members of the Committee, who represent both Houses and all sides of politics. I am pleased to report that the deliberations of my colleagues have contributed greatly to this report, and that the report and its recommendations carry the unanimous support of all Members. A previous STAYSAFE Chairman commented that he felt that the bicameral and bipartisan nature of the STAYSAFE Committee's structure was its greatest strength. I can only concur with his assessment.

I am grateful for the assistance of my friend and colleague Mr Peter Nagle MP, Member for Auburn, who has maintained an active interest in matters affecting the courier industry. His detailed knowledge of the industry has enabled the Committee to better understand the development of the bicycle courier industry.

I also wish to acknowledge the invaluable help given by a number of people during this inquiry. In particular, the Committee is grateful for the assistance of:

Mr Len Woodman, Road Safety Officer, Sydney City Council
Senior Constable Ray Constable, New South Wales Police Service
Mr Stephen Soelistio, Roads and Traffic Authority
Ms Kathleen Robertson, Courier and Taxi Truck Association

Finally, I wish to acknowledge the assistance of Parliamentary staff in the conduct of the public hearing into bicycle courier activities and in the preparation of this report. The Director of the STAYSAFE Committee, Mr Ian Faulks, worked hard to ensure that the Members of the STAYSAFE Committee were able to form an accurate view of the development of bicycle courier industry in Sydney and elsewhere, and he was particularly helpful in identifying and developing the lines of inquiry that have led to the unanimous recommendations of the Committee. Mr Faulks was assisted by the staff of the Committee: Mrs Cheryl Samuels,

Committee Officer; Mr Chris Papadopoulos, Research Officer; Mr James Tremain, previously a Research Officer with the Committee; and Mrs Maria Tyrogalas and Ms Michelle Brown, Assistant Committee Officers. The (now retired) Editor of Debates, Mr Robin Dennis, ensured that an accurate transcription was made available of the verbal evidence heard before the Committee, and Mr Paul Guilfoyle, Manager (Printing) and Mrs Pat Makin, Supervisor (Printing and Copying) of the Parliamentary Printing Services, provided a timely and efficient service in printing this report.

I commend this report to Parliament.

Paul Gibson
Chairman

EXECUTIVE SUMMARY

This report of the STAYSAFE Committee examines issues of real and perceived risk associated with bicycle courier activities in the Sydney central business district. The report is presented as part of STAYSAFE's general inquiry into pedestrian safety, but the specific review of bicycle courier activities was undertaken following the receipt of a Ministerial Reference from the Minister for Transport, the Hon. Brian Langton MP.

The bicycle courier industry grew slowly in Sydney during the 1980's, and the bicycle courier industry provides a rapid and efficient means of transferring documents and small parcels throughout the inner city area. However, by the beginning of the 1990's concerns about illegal and irresponsible behaviour by riders were becoming commonplace, with pedestrians being struck down, and widespread abuse of traffic laws relating to traffic signals and signage. In particular, the bicycle couriers' misuse of pedestrian-only areas within the city was the cause of major community and official concern. The anonymity of bicycle couriers posed problems for both police enforcement and public complainants, with few riders being able to be identified after incidents occurred, and a major problem arising with the non-payment of traffic infringement fines. Voluntary schemes seeking to provide a framework to control illegal behaviour and to promote safe and legal riding behaviour were implemented by, first, Sydney City Council, and later by the Department of Transport, but both schemes failed. The problems associated with bicycle courier activities have continued.

This report is structured to address three basic questions: what is the current state of knowledge about bicycle courier activities and social and economic costs and benefits associated with the industry; what form of regulatory environment is appropriate for the bicycle courier industry; and what are the strategies to ensure that bicycle courier activities are integrated into the planning and management of the downtown Sydney area as an accessible city for residents, commuting workers, and visitors.

STAYSAFE has provided a description of the bicycle courier industry (particularly with regard to the economic value and costs associated with bicycle courier operations), and has identified the real and perceived community concerns with the safety of bicycle courier activities in the Sydney CBD (particularly the interaction between bicycle couriers and pedestrians on roadways and in pedestrian zones).

STAYSAFE has identified the need for effective regulation of bicycle courier activities as the overriding issue of concern. STAYSAFE has concluded that a compulsory scheme of accreditation is required, and has made a number of recommendations calling for a review and restructuring of the penalties applicable to bicyclists and in particular, bicycle couriers who commit traffic offences. STAYSAFE has also made recommendations regarding changes required for the effective enforcement of safe bicycle courier activities, including the need for the compulsory carriage of identification documents, and police powers to seize and impound bicycles under certain circumstances.

STAYSAFE has also examined future strategies that could be adopted to facilitate bicycle courier movements without compromising pedestrian safety or the safe and efficient movement of motor vehicles in downtown Sydney. Such strategies can include traffic management strategies such as wider footpaths, designated cycling paths, and shared pedestrian zones, etc., as well as the re-routing of existing roadways and the development of new road links. Other approaches include the development of planning and advisory bodies that can address the wider issues of the needs of bicyclists within the downtown Sydney area, and the need to ensure a safe and accessible city.

RECOMMENDATIONS

REGULATION OF CYCLING, WITH A SPECIFIC FOCUS ON THE BICYCLE COURIER INDUSTRY

RECOMMENDATION 1: The Attorney General consider the use of the term >vehicle= in the definitional provisions of Chapter 6 of the Industrial Relations Bill 1996 relating to contracts of carriage, rather than use of the phrase >motor vehicle or bicycle'.

(Page 37, Paragraph 3.11)

RECOMMENDATION 2: The New South Wales Police Service continue to support the use of uniformed and 'plain clothes' bicycle patrols in the Sydney police district, with specific tasking for enforcement of illegal bicycle courier activities as well as tasking in other areas of crime control, as needed.

(Page 39, Paragraph 3.20)

RECOMMENDATION 3: The Minister for Roads amend the Traffic Act 1909 and any associated statutory rules, as applicable, to provide for a penalty for proven traffic offences while riding a bicycle to be a substantial monetary fine.

(Page 41, Paragraph 3.23)

RECOMMENDATION 4: The penalty structure for offences involving the use of a bicycle should apply to all classes of cyclist, and not distinguish between commercial cyclists, commuter cyclists, recreational cyclists.

(Page 41, Paragraph 3.27)

RECOMMENDATION 5: The New South Wales Police Service:

- (a) continue to compile statistical information relating to operations involving the enforcement of traffic law with regard to bicycle couriers, and
- (b) ensure that this statistical information is available in a form that allows problem areas associated with bicycle courier activities to be identified quickly.

(Page 43, Paragraph 3.34)

RECOMMENDATION 6: The Government should take action to ensure the development and implementation of a regulatory system to ensure:

- (a) a mandatory registration scheme for persons seeking to work as bicycle couriers; and
- (b) a mandatory identification system for bicycle couriers.

(Page 57, Paragraph 3.75)

RECOMMENDATION 7: The Government should take action to ensure that persons seeking to work as bicycle couriers must pass the Roads and Traffic Authority's computerised knowledge test.

(Page 57, Paragraph 3.75)

RECOMMENDATION 8: It should be an offence for bicycle couriers to perform, or seek to perform, courier work when:

- (a) not registered under a mandatory scheme for persons seeking to work as bicycle couriers;
- (b) not carrying identification identifying himself or herself as a bicycle courier; and
- (c) using or seeking to use false or stolen identification when conducting courier work.

(Page 57, Paragraph 3.77)

RECOMMENDATION 9: That the Minister for Roads amend the Traffic Act 1909, and related statutory rules, to allow the impounding of bicycles if a bicycle is being ridden in an unlawful manner by a commercial cyclist involved in the transport of goods.

(Page 57, Paragraph 3.79)

RECOMMENDATION 10: Bicycle couriers should be required to lodge a monetary bond as part of the process of registration for courier work, and unpaid fines for proven traffic offences incurred during courier work should be paid from such bonds.

(Page 58, Paragraph 3.81)

RECOMMENDATION 11: The Minister for Roads amend the Traffic Act 1909 and any

associated statutory rules, as applicable, to provide that a penalty for proven traffic offences while riding a bicycle in the performance of courier work includes demerit points to be recorded against an offender's drivers licence record.

(Page 59, Paragraph 3.83)

THE BICYCLE COURIER INDUSTRY AND THE FUTURE OF CYCLING IN THE CITY

RECOMMENDATION 12: Sydney City Council, in consultation with the Roads and Traffic Authority, Bicycle NSW, and other relevant organisations and individuals, develop a bicycle plan that addresses the needs of all cyclists in and around the Sydney central business district, with a specific focus on:

- (i) ensuring that the needs of commercial cyclists (i.e., bicycle couriers) are considered as well as addressing the needs of commuter and recreational cyclists;
- (ii) examining bicycle routes to, from and within the Sydney central business district with regard to the demands of commercial bicycle courier work for access throughout the area.

(Page 64, Paragraph 4.17)

RECOMMENDATION 13: The Sydney City Council, in consultation with the Roads and Traffic Authority and other relevant organisations, examine the feasibility of developing a system of marked bicycle lanes, including contraflow bicycle lanes, in pedestrian malls and on selected roadways throughout the Sydney central business district.

(Page 67, Paragraph 4.35)

RECOMMENDATION 14: The Sydney City Council, in consultation with the Roads and Traffic Authority and other relevant organisations, ensure that the needs of bicycle courier industry are taken into account when developing a system of bicycle parking and storage facilities throughout the Sydney central business district.

(Page 69, Paragraph 4.40)

RECOMMENDATION 15: The Sydney City Council, in consultation with the Roads and Traffic Authority and other relevant organisations, examine the feasibility of bicycle priority signals at selected signalised intersections within the Sydney central business district.

(Page 69, Paragraph 4.41)

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INTRODUCTION

The Ministerial reference - Terms of reference - The major parties to the inquiry - Concerning the process of the inquiry - The structure of the report

1.1 This report is the third in a planned series of reports by STAYSAFE to be Tabled as part of its inquiry into pedestrian safety. Prior to the announcement of the inquiry in pedestrian safety in late 1993, there had not been a major review of pedestrian road trauma in New South Wales, even though pedestrian fatalities have, on average, comprised about 20% of the total New South Wales road fatalities over recent years.

1.2 The approach adopted by STAYSAFE has been to proceed slowly and systematically to examine a range of issues associated with pedestrian safety. This approach has allowed STAYSAFE to consider issues associated with pedestrian safety in some depth. This approach has also been beneficial to the New South Wales Government, as it has allowed STAYSAFE to receive and accept Ministerial References on urgent matters (e.g., the provision in 1994 of a Reference from the Minister for Police to examine police motor vehicle pursuits, which was reported as STAYSAFE 27, 1994; and the provision in 1995 of a Reference from the Minister for Roads to examine the proposed introduction of a 50 km/h local road speed limit on residential streets in New South Wales, which is an inquiry in progress). The provision of Ministerial References requesting STAYSAFE to inquire into any matters associated with road safety are welcomed, and typically receive priority for action.

1.3 STAYSAFE has taken extensive evidence relating to child pedestrian issues over the last two years, which has resulted in the Tabling of a report on child pedestrians around buses (STAYSAFE 26, 1994), and a report on adults and children washing motor vehicle windscreens at street intersections (STAYSAFE 29, 1995). A further report on general child pedestrian issues is to be Tabled shortly.

1.4 STAYSAFE is now shifting its focus to examine the safety of adult pedestrians. Issues that are associated with adult pedestrians include drink-walking and pedestrians impaired by drugs other than alcohol, the safety of older pedestrians, and pedestrian access issues associated

with people with disabilities. These matters will be examined in public hearings by STAYSAFE over the next year.

1.5 This report deals with the particular pedestrian safety issues associated with the activities of commercial bicycle riders in the Sydney city area. STAYSAFE's examination of this matter arises from the receipt of a Ministerial Reference requesting STAYSAFE to examine bicycle courier activities in the Sydney central business district.

The Ministerial Reference

1.6 In mid-July 1995 Mr Kevin Moss MP, Parliamentary Secretary for Transport, passed on to the Chairman of the STAYSAFE Committee copies of his reply to personal representations initially made by Mr H. Aram, of Double Bay to the Hon. Bob Carr MP, Premier, regarding the behaviour of bicycle couriers within the Sydney central business district. The Premier had referred Mr Aram's concerns to the Minister for Transport and Minister for Tourism.

1.7 The Parliamentary Secretary wrote on behalf of the Hon. Brian Langton MP, Minister for Transport and Minister for Tourism, stating:

"A copy of representations referred to the Hon. Brian Langton MP, Minister for Transport and Minister for Tourism, concerning the behaviour of bicycle couriers within the Sydney central business district is attached for your information.

As the STAYSAFE Committee is currently conducting an enquiry into "Pedestrian safety", you may wish to consider this matter."

1.8 In early August 1995 the Chairman of the STAYSAFE Committee replied to the Parliamentary Secretary agreeing that the examination of bicycle courier activities within the Sydney central business district could be appropriately dealt with as part of the inquiry into pedestrian safety.

1.9 Subsequently, STAYSAFE resolved to accept the Ministerial Reference to examine bicycle courier activities within the Sydney central business district.

Terms of Reference

1.10 The terms of reference for STAYSAFE's inquiry into pedestrian safety had a particular head to examine the interaction of pedestrians, bicyclists and toy vehicles (i.e., in-line skates, skateboards, etc.). At the time these terms of reference were drafted, STAYSAFE was mindful

of the need to examine two matters: footpath cycling and shared pedestrian-bicyclist zones, and bicycle courier activities in the Sydney central business district.

1.11 However, the issues associated with bicycle courier activities extend beyond the immediate interaction of pedestrians and bicycle couriers. Accordingly, the terms of reference adopted by STAYSAFE for the inquiry into bicycle courier activities in the Sydney central business district require an assessment of:

- ! the real and perceived community concerns with the safety of bicycle courier activities in the Sydney CBD, particularly the interaction between bicycle couriers and pedestrians on roadways and in pedestrian zones
- ! the nature of the bicycle courier industry, with particular regard to the economic value and costs associated with bicycle courier operations
- ! the penalties that should be applicable to bicyclists, and in particular, bicycle couriers, relative to penalties applying to other road users
- ! need for accreditation of bicycle couriers, including assessment of government agency involvement
- ! changes required for the effective enforcement of safe bicycle courier activities, including identification requirements and power for police to demand identity documents
- ! future traffic management strategies that could be adopted to facilitate courier movements without compromising pedestrian safety, including wider footpaths, designated cycling paths, and shared pedestrian zones, etc.

The major parties to the inquiry

1.12 Preliminary discussions were held with the major parties to be involved in the hearing over the next weeks, and these parties were formally notified of the public hearing into bicycle courier activities within the Sydney central business district scheduled for Monday 23 October 1995.

1.13 The major parties involved in the hearing were:

Sydney City Council

Department of Transport
New South Wales Police Service
Courier and Taxi Truck Association
Bicycle New South Wales
Roads and Traffic Authority
NRMA Ltd.

1.14 Subsequent to the hearing, STAYSAFE received a number of submissions raising points of interest. STAYSAFE also held meetings with commercial bicycle riders working as couriers, and with representatives of the Courier and Taxi Truck Association and the Transport Workers Union.

Concerning the process of the inquiry

1.15 This inquiry into bicycle courier activities was undertaken in a situation where it was recognised that there was significant community concern and, in fact, active disapproval of the activities of bicycle couriers.

1.16 STAYSAFE wishes to emphasise that the approach taken during the inquiry was to examine with an open mind, insofar as was possible, the issues associated with bicycle courier activities in the Sydney central business district. To that end, STAYSAFE was careful to structure its inquiry so that the heads of inquiry identified both the real and perceived dangers associated with bicycle courier activities, and identified the benefits associated with bicycle courier activities in addition to the social costs.

The structure of the report

1.17 This report is structured to address three basic questions:

- ! what is the current state of knowledge about bicycle courier activities and social and economic costs and benefits associated with the industry;
- ! what form of regulatory environment is appropriate for the bicycle courier industry; and
- ! what are the strategies to ensure that bicycle courier activities are integrated into the planning and management of the downtown Sydney area as an accessible city

for residents, commuting workers, and visitors

1.18 In the next chapter, STAYSAFE has sought to understand the nature of the bicycle courier industry (particularly with regard to the economic value and costs associated with bicycle courier operations), and to identify the real and perceived community concerns with the safety of bicycle courier activities in the Sydney central business district (particularly the interaction between bicycle couriers and pedestrians on roadways and in pedestrian zones). A review has been conducted of reports, papers and other material relevant to bicycle courier activities. At present no studies specific to bicycle courier activities have been found, although some material has been discovered relating to bicycle courier activities overseas. As well, press articles with comment relevant to bicycle courier activities in the Sydney central business district have been reviewed.

1.19 Chapter 3 clearly identifies the need for effective regulation of bicycle courier activities as the overriding issue of concern. STAYSAFE has examined the penalties that should be applicable to bicyclists and in particular, bicycle couriers relative to penalties applying to other road users, and reviewed the need for accreditation of bicycle couriers or courier companies. STAYSAFE has also examined the changes required for the effective enforcement of safe bicycle courier activities, including identification requirements and power for police to demand identity documents.

1.20 In the final chapter STAYSAFE has examined future strategies that could be adopted to facilitate bicycle courier movements without compromising pedestrian safety or the safe and efficient movement of motor vehicles in downtown Sydney. Such strategies can include traffic management strategies such as wider footpaths, designated cycling paths, and shared pedestrian zones, etc., as well as the re-routing of existing roadways and the development of new road links. Other approaches include the development of planning and advisory bodies that can address the wider issues of the needs of bicyclists within the downtown Sydney area, and the need to ensure a safe and accessible city.

THE BACKGROUND TO BICYCLE COURIER ACTIVITIES IN THE SYDNEY CENTRAL BUSINESS DISTRICT

Background - What is known about bicycle courier activities - What is known about bicycle courier activities in the Sydney central business district - Real and perceived risks of a crash involving a bicycle courier - Young, fast, fit folks: The image of bicycle couriers - The roles of pedestrians and motorists in incidents involving bicycle couriers - Concluding comments

2.1 Any examination of bicycle courier activities in the Sydney central business district requires an understanding of the nature of bicycle movements within the area, particularly with regard to other traffic movement involving motorised vehicles and pedestrians. There is also a need to understand the nature of the courier industry (particularly with regard to the economic value and costs associated with bicycle courier operations), and to identify the real and perceived community concerns with the safety of bicycle courier activities in the Sydney CBD (particularly the interaction between bicycle couriers and pedestrians on roadways and in pedestrian zones).

Background

2.2 The area covered by the Sydney central business district lies at the social and economic centre of metropolitan Sydney. There is a high concentration of different land uses in this very limited area, including a very dense commercial and retail area in the Sydney central business district, and pockets of residential and recreational areas. The Sydney central business district is one of the most heavily traffic congested areas in Australia. Downtown Sydney serves as a major business, governmental, entertainment and tourist focus for the rest of the metropolitan area and for much of New South Wales. Throughout the day and for much of the night large volumes of passenger vehicles, light trucks, delivery vehicles and courier vehicles traverse the district to the north and south and east and west. The major harbour crossings of the Sydney Harbour Bridge and the Sydney Harbour Tunnel bring considerable traffic from the north shore

and northern beaches, from the central coast, Newcastle and the Hunter region. These harbour crossings deliver equivalent reverse traffic flows. While traffic is diverted through the western distributor or the Cahill Expressway-William Street-Flinders Street, South Dowling Street network to the east of the city, large numbers of vehicles from the north enter into or leave from the streets of the central business district directly. To the south and west, the confluence of major highways in the inner city leads to a funnelling of traffic via the Broadway and thence into the Sydney central business district. To the east of the Sydney central business district, traffic flows enter the Sydney central business district through a variety of sources, including William Street, Oxford Street, and routes using Cleveland Street.

2.3 In the midst of this continual vehicle traffic flow, there are major pedestrian movements occurring throughout the day and, in sections of the city, into the evening. The city circle railway loop and the Bondi junction line provide seven focal points for pedestrian movements throughout the Sydney central business district¹. Streets, and parts of streets, are being set aside for exclusive pedestrian use (e.g., Martin Place, Pitt Street Mall, Barrack Street, Dixon Street, Hay Street and Pyrmont Bridge) or are being substantially modified to improve pedestrian access, amenity and mobility.

2.4 The area encompassed by the Sydney central business district is an unusual environment in road safety terms. Not only does the area attract considerable through motorised traffic, the area also functions with an essentially itinerant, non-residential population, either as overseas visitors, the local populace visiting for a variety of purposes (including governmental, business, health, educational or entertainment), or as workers. This means that the complex relationships between access, amenity and mobility are much different than those that occur throughout the vast extended metropolitan areas of greater Sydney.

What is known about bicycle courier activities

2.5 A review has been conducted of reports, papers and other material relevant to bicycle courier activities. At present no studies specific to bicycle courier activities have been found, although some limited material has been discovered relating to bicycle courier activities overseas.

2.6 STAYSAFE did not identify any significant overseas reports into bicycle courier activities. However, it seems bicycle couriers, or cycle messengers as they are more commonly

¹ The railway stations in the Sydney central business district are: Central, Town Hall, Wynyard, Circular Quay, St James, and Museum on the city circle line, and Central, Town Hall and Martin Place on the Bondi Junction line

known overseas, are active in most major Western cities, including Washington DC, New York, Toronto and London.

2.7 STAYSAFE viewed a variety of media reports of bicycle courier activities. For example, STAYSAFE noted a feature story on the Canadian lifestyles program >Oh La La=, which is broadcast in Australia on SBS television. This feature reported on a gathering of bicycle couriers (cycle messengers) in Toronto that featured couriers from Europe, North America, and Asia. Activities at the meeting included speed riding contests, and contests involving package pick up, transport, and delivery. As would be expected for a lifestyles-oriented program, much of the feature story was devoted to examining questions of image and the social interactions of riders in urban environments combining corporate activities, commercial transactions and traffic congestion and safety. More recently, the Australian current affairs program >60 Minutes= featured a story on cyclists and motorists under the title >Road rage=. The story highlighted the problems associated with the interaction of bicycles and motor vehicles on roads, and covered a variety of issues associated with cycling, including the types of injuries received by cyclists in collisions with motor vehicles, the common disregard of road rules by cyclists, developments in traffic management to provide for bicycle movements and separate bicycles from motor vehicles, and the development of a bicycle courier industry in cities such as Sydney and Melbourne.

What is known about bicycle courier activities in the Sydney central business district

2.8 STAYSAFE examined local reports of bicycle courier activities in the Sydney central business district, in order to determine the general nature of the bicycle courier industry as it operates in Sydney.

2.9 Bicycle courier activities became prominent in the Sydney area in the late 1980's. By the start of the 1990's, all major courier companies operating within the Sydney central business district supplemented their fleet with at least some bicycle riders (Constable, 1995). In 1995, it seems that about twenty companies were involved with bicycle courier activities, with estimates of the numbers of bicycle couriers varying from 120-150. Most companies have bicycle couriers operating as one arm of a more general courier business. Bicycle couriers are usually subcontracted to the companies, rather than salaried employees (see [Appendix A: Bicycle couriers and industrial regulation](#)). Courier companies issue bicycle couriers with a radio, which is their form of communication in relation to jobs. Some courier companies require their riders to wear an identifying uniform.

2.10 The cost of the courier service, and what a courier actually receives per job, varies from

about 90¢ per job to around \$4, depending on the nature of the task, whether it is a short run or a longer run. Riders typically receive about 65% of the job cost to the client. The rates of pay are defined under a variety of names across the different courier companies (e.g., top priority, bullet, VIP, etc.), but the basic rate structure is:

Standard - delivery in less than one hour

Double - delivery typically within 15-20 minutes

Triple - ASAP, usually less than 10-15 minutes

The delivery time is reckoned from the time of the phone call to the courier company, not the time a rider picks up the package. Bicycle couriers advised STAYSAFE that rates of pay have declined over the last few years. Several years ago, it would have not been uncommon for a rider to expect to receive around \$2.50 for a standard delivery package. Deals negotiated between individual courier companies and client firms have seen the negotiated company rates fall. This ranges across firms from a low of around \$1.87 per standard delivery to \$2.00-\$2.20 per standard delivery. The rate of pay is a flat fee structure within the immediate Sydney CBD, rising to a higher rate for peripheral deliveries (e.g., Chippendale, Kings Cross, Ultimo). A delivery from the Sydney CBD to North Sydney attracts an additional 50¢ commission for the rider.

2.11 STAYSAFE understands from discussions with bicycle couriers that there is a basic problem with the economics of the courier industry, in that the pricing structures for courier work seem to be based on an assumption that laws can and particularly traffic laws can be broken safely.

2.12 About 15-20,000 articles are moved in the city in one week by bicycle couriers. As told to STAYSAFE by both riders and courier companies, a typical rider can be expected to do 40+ jobs per day over a 10-hour shift, perhaps averaging 50-60 packages. STAYSAFE understands that courier companies may operate a seniority system, where riders who have been with a courier company for a long period are allocated jobs within a smaller, more central area of the Sydney central business district than newer riders. Newer riders are thus more likely to receive jobs that necessitate longer distance rides.

2.13 The typical area covered by bicycle couriers includes the city central business district, extending outwards with a range of 1-2 kilometres of the central business district. Typical suburbs covered by bicycle couriers include Woollahooloo, Darlinghurst, Surry Hills, Chippendale, Ultimo and Pyrmont, as well as North Sydney and Milsons Point across the Harbour.

2.14 Representatives of the bicycle courier industry indicated that the type of materials covered by bicycle couriers was subject to size and weight restrictions. This would include envelopes and small parcels up to the equivalent of telephone books totally about 3,000 pages. Courier companies refuse to carry cash, because it is not insurable and is life-threatening.

Similarly, negotiable bonds, gemstones, and other valuable items are not carried by couriers. As a general rule, whatever will not fit in the backpack or is bigger than one cubic foot is not acceptable on a pushbike, and a motor vehicle will be used instead.

2.15 STAYSAFE examined the value of the bicycle courier industry. Representatives of the courier companies estimated the annual turnover of the total courier and taxi truck industry to be around about \$250 million per annum, of which the annual turnover involving contractor bicycle couriers is more than \$10 million per annum. Payments to contractor bicycle couriers are estimated to be about \$7 million per annum.

2.16 STAYSAFE's discussions with bicycle couriers indicated that riders are concerned about their employment conditions. Some courier companies do not pay workers compensation, some do not pay employer contributions into superannuation funds. A particular concern of riders is associated with superannuation funds where a courier company declines to pay into a rider's personal superannuation scheme, instead forcing the rider to enter a different scheme associated with the courier company. Another concern relates to the levying of 'administration costs', or as it is known in the rider slang, 'beer money'. Riders are charged an administration fee over and above the company percentage of the jobs. Typically, this administration fee is about \$10-11 per week regardless of the number of days worked.

2.17 In general, STAYSAFE understands that long term riders quickly learn to identify the shonky operators, and move to more reputable courier companies with better conditions of employment. The effect of this system, however, seems to be that naive riders fare the worse in terms of work opportunities. STAYSAFE is especially concerned that it is the new riders entering into courier work, who may be unfamiliar with New South Wales traffic law, unfamiliar with the geography of inner city streets, and under some personal pressure to generate a high income, who might well judge the risks associated with illegal and unsafe actions during courier work, and the limited chance of being caught for illegal or unsafe behaviour, and decide to act inappropriately.

2.18 STAYSAFE notes that the task faced by bicycle couriers in the Sydney central business district are quite different from those faced by recreational and commuting cyclists in other areas of Sydney or elsewhere in the State. Mr Bond, representing the courier companies using bicycle couriers, commented:

Mr BOND: "As far as congestion goes, the riders are far more disadvantage in the central business district. The number of accidents in relation to pushbikes because of that congestion - and I am talking in terms of pushbike/pedestrian encounters, but by far the greater number involve pushbike/car encounters - the most common accident,

according to our statistics, would be the car door situation. That is where a pushbike courier is going along, the vehicle changes direction with very little indication, the car door opens at the light to let passengers out, and that type of thing. The pushbike courier basically has no time to stop, and it basically results in an injury. But, certainly, congestion and the smog factors are major concerns for their safety in this day and age. As to road space as such, on a normal suburban street or highway, as Committee members may be aware, there is a space additional to the basic traffic lane in which a rider can proceed along. That is not the case in the city centre." (Minute of Evidence, 23 October 1995, p. 52)

Real and perceived risks of a crash involving a bicycle courier

2.19 Mr Macky, Mr Higgins and Mr Suivi, representing NRMA Ltd., submitted a brief survey of public perceptions of bicycle courier activities in the Sydney central business district. These public perceptions were gained from interviewing pedestrians on Sydney central business district streets. The comments about the survey were given as part of answering a general question about NRMA Ltd.'s knowledge of public concern over bicycle courier activities.

Mr SMITH (STAYSAFE): ACould you give us some indication as to the volume of complaints in correspondence that you may have from the public, who may have been concerned with the various activities of bicycle couriers? Could you also indicate the type of issues that are raised in those letters. The Committee would be grateful if you could possibly table some of the correspondence that you have had, just giving a general outline of the issues that have been raised.@

Mr MACKY: ANRMA members have an opportunity to raise concerns through services such as our Legal Service and Hazardous Locations Service and in Letters to the Editor of *Open Road*. To date, however, we have received very little feedback from our membership on the issue of bicycle couriers in the central business district. Whilst this may give some indication of the scope of the problem, it may also be due to the fact that our membership does not perceive NRMA as the appropriate point to lodge such complaints, being a motoring organisation. Nevertheless, some anecdotal evidence and casual observations by the staff suggest that bicycle couriers do pose a road safety hazard. To gain some insight into this problem, NRMA has conducted a brief questionnaire survey on public attitudes towards bicycle couriers, and we will be presenting these results to you today.@

Mr HIGGINS: AAs Mr Macky suggests, we have in fact conducted a brief survey. With the Committee's leave, we would like to present those results, if we could.@

MR GIBSON (CHAIRMAN): AThank you.@

Mr SUIVI: AThe surveyors went out at lunch time last Thursday [19 October 1995] and asked these questions that I have displayed on the projector. We asked people: Do you believe that bicycle couriers are a risk to public safety in the Sydney central business district? Of 93 people that responded, [58 people, or] 61% said they were a risk, and 35 people (or 39%) believed they were not a risk. If they answered yes to the question, we then asked: Why do you think they are a risk? Almost 30 people said: disregard for the law, disobey traffic signals, riding on footpaths, weaving among pedestrians, dangerous riding in traffic, dangerous riding generally, and then less than 11 people said: travelling too fast in public areas, difficult to see, and intimidation. We then asked them: Have you personally had a dangerous incident with a bicycle courier? About 32 or 33 said yes, and about 27 said no. By an "incident", they meant not only where people had had an impact with one. Most of them had had a close call, but they were not actually hit. We also asked: Do you believe that bicycle couriers disobey road rules more than other bike riders? A pool of 45 said that they do. Those are the survey results....@

The Hon. J. H. JOBLING (STAYSAFE): AIt is interesting that you have undertaken this survey, and we must accept the outcome. But, being a sample of 100, it is an extremely small sample as such, and I take it you are going to do some more research in that regard. But, looking at the data that I suspect you must have from other incidents tucked within the NRMA, and looking at the concerns of the safety of bicycle courier activities, particularly in the central business district, I would like your views on the interaction between bicycle couriers and pedestrians on roadways and in pedestrian zones in that area.@

Mr HIGGINS: AAs Mr Macky alluded to earlier, in terms of direct feedback from our membership, there has not been a tremendous amount. The possibility is that the NRMA is not perceived as an appropriate place to complain about this. But, in terms of the magnitude of the problem, I think it gives us some indication. The interaction between pedestrians and couriers is probably as much a matter of inconvenience and annoyance as it is a significant threat to road safetyCnot to undermine its impact on road safety. I am aware that we have had two road deaths, one of a courier and another of a pedestrian, as is our understanding. But, in terms of the other major issues that we are tackling with road safety - drink-driving, driver fatigue, speeding issues - in terms of relevance, the indications are that it is not perceived to be the same sort of problem that those issues are. Nevertheless, it is a significant problem and a terrible source of annoyance for any pedestrian using the central business district, and therefore it should be treated accordingly, and we do have to manage the particular issue.@ (Minutes of Evidence, 23 October 1995, pp.28-29)

2.20 The representatives of NRMA Ltd. provided STAYSAFE with some additional documentation regarding the survey. In all, 93 persons (39 women, 54 men) participated in the

survey. The age of the respondents was not established, but the survey personnel estimated the ages of the respondents to be: less than 20 years (10 respondents), 20-29 years (28 respondents), 30-39 years (23 respondents), 40-49 years (14 respondents), 50-59 years (15 respondents), and 60 years or over (3 respondents).

2.21 Where applicable, the respondents' comments were collated by NRMA Ltd. into several general categories. These included:

General

Difficult problem, bicycle act like pedestrians and cars
Bicycles are difficult to hear

Bikes/people/cars

Too many pedestrians in the city
So many of them (couriers)
motorists have little concern for riders

Need the service BUT

Need the service, it's terrific but the way they ride!
Need the service, but!

Pressure

High competition, rushing, riders are under pressure
Riders under lots of pressure
The couriers have too many jobs, they are very busy

Crossings

At crossings riders are threatening to pedestrians
Seen riders knocking people down
Take too many risks

One-way streets

Wrong way up one-way streets
One-way streets

2.22 Correspondence from the public received by Sydney City Council and the Department of Transport fall into three broad categories of issues that are raised. First, letters are written by people who have had some form of incident with bicycle couriers, whether that is from having been knocked over by a bicycle courier or because they have been endangered or frightened. Not only are these correspondents upset about the incident, they are also concerned that they see

bicycle couriers operating around the city contravening the road rules, and express the view that some corrective action needs to be taken. A second type of letter is from people who indicate that they have not had any particular incident themselves with a bicycle courier but see couriers openly flouting the road rules, and feel that action needs to be taken to control or regulate bicycle couriers. Finally, a third category of correspondents are those who make suggestions on how enforcement can be improved, or various forms of control of the industry can be introduced.

2.23 During the course of the examination of bicycle courier activities in the Sydney central business district, STAYSAFE received several submissions from members of the public reporting their experiences with bicycle couriers (e.g., Mr J.A. Roberts, Submission PED 17; Mr M. Preebles JP, Submission PED 294; Mr P. Hope, Submission PED 298; Mr H Aram, Submission PED 301; Mrs P. Hall, Submission PED 305; Mr G.V. Bellamy, Submission PED 306; Mr L. Loker, Submission PED 309; and Mr D. Alexander, Submission PED 319). STAYSAFE also received an extensive submission from a group of bicycle couriers (Mr A. Hogan, Submission PED 291).

2.24 In general, the submissions received described incidents where a bicycle courier was involved in a crash or near-miss with the person writing the submission or someone known to that person.

2.25 On a tangential note, STAYSAFE accepts that such concerns with the behaviour of bicycle riders are not new. Knott=s (1994) comments regarding cycling in Sydney in the late nineteenth century indicate that inappropriate cyclist behaviour around pedestrians was a cause of concern:

".... Nor was it only as a means of recreation that bicycles were popular: because of their comparative cheapness, convenience and speed, bicycles became a serious alternative to the horse for personal transport in both urban and rural Australia.

Anti-social (and potentially dangerous) behaviour by some young male cyclists caused particular concern. A favourite prank was 'scorching': silently speeding up behind pedestrians and then flashing by with a loud yell or ringing bell [Fitzpatrick, 1980]. Disquiet over the speed and behaviour of cyclists was so widespread that one Sydney newspaper claimed that the strict speed limits imposed under the 1900 *Metropolitan Traffic Act* (8 m.p.h. along any street and walking pace at intersections) were aimed at curbing 'the bicycle fiend ... who ...[is] a perpetual source of danger to the general public and themselves' [*Australian Star*, 24 October 1900]...." (pp. 228-229)

Young, fast, fit folks: The image of bicycle couriers

2.26 STAYSAFE notes that the image adopted or sought by bicycle couriers is contributory to their behaviour and, in turn, to the public perception of bicycle couriers.

2.27 STAYSAFE reviewed the available media portrayals of bicycle couriers, finding images such as:

- providing a fast service For example, one media article referred to a courier knowing *Only one way to do his work. Cat top speed. Even if it means breaking the law.* A bicycle courier was quoted as saying, *Time is money in this game, and if that means breaking the law to get somewhere in a few minutes, you won't see me for dust.* Other quotes are instructive: *The quicker you are, the more work you get done;* *...it's just full throttle;* and *After all, a successful bicycle courier is a fast one.* A flyer for *Fastbook Bicycle Service*, a division of *Bonds Couriers*, advertises *Average delivery time are significantly less than maximums quoted.*
- social non-conformity A *seasoned bicycle courier* was reported to have said, *When we ride on the footpath, we are really careful.* Another article posed the question: *Cycle couriers: marvels, mavericks or merely misunderstood?* Another article argued *Bicycle couriers have developed their own culture* and believe they should not be fined if they break traffic laws *...*
- aggressiveness Reference to *numerous complaints about the rude and aggressive behaviour of riders in the central business district.* In a press article dealing with the aggressiveness of motorists to cyclists, a bicycle courier was quoted as saying his best retaliation to a driver was *Someone pushed me into the gutter, I ran up to where they were stopped and I flogged him, and he hadn't wound up the window so I pulled him out and flogged him so more. Then the cops came up and took me to the station.*
- law breakers For example, *Green, amber, red, stop Everybody stops except the bicycle couriers in the central business district,* *Bike blitz snares 75'*, and references to *a state of anarchy on our roads*. Other articles state that *red traffic lights, one-way street signs and crowded pavements are no barrier for ... pushbike couriers who work in Sydney's CBD*.
- the need for enforcement For example, media reports use terms such as *crackdown* and *clampdown*, and phrases such as *undercover bicycle police cracking down on reckless city cyclists*, or *blitz on cycle couriers*, and *the latest push against cycle couriers*.
- inappropriate behaviour For example, the need for better identification of *irresponsible*

riders=. As noted earlier, reference to Anumerous complaints about the rude and aggressive behaviour of riders in the central business district.@

- risk taking and thrill seeking Reference to >daredevil riders=, AThe kamikaze lads weave in and out of traffic, run red lights, travel the wrong way down one-way streets and ride on footpaths@, and ACouriers run the gauntlet@.
- athleticism and fitness A courier was reported as stating, AIt is a super job. It has so much going for it. You are outside all day and keeping fit.@ A media report stated: AHe Cmost are maleCalso had to be extremely fit and dedicated enough to work in heat and rain@
- attractiveness One media article referred to Athe pushies do have a few fansCfemale office workers who hang around >courier corner= at the Circular Quay end of Pitt Street near Bridge Street, at lunchtime for a closer look at those skin-tight shorts.@ The article went on to claim that the >pushies= Amaintain they are a hit with women office workers because they are >half-naked, tanned, healthy and sweaty.@

2.28 A submission from a group of experienced bicycle couriers challenged the accuracy of media portrayals of bicycle couriers, noting that for an industry with less than 150 workers there is a great deal of media attention. The bicycle couriers argued that such media attention is not surprising when it is considered that they are working in full view of the public in the central business district of Australia's largest city. The bicycle couriers were themselves critical of the media, for example, accusing print and electronic media of reporting in a sensationalised, misleading manner, of television reports using old footage of illegal behaviour by bicycle couriers, and noting, in particular, the comments of radio broadcaster Clive Robertson that members of the public should punch bicycle couriers.

Fly-by-nighters are the fly in the ointment

2.29 It is claimed that it is only a minor section of the bicycle courier industry that is creating problems, and it is often claimed that the riders most likely to be involved in illegal riding are overseas visitors working as bicycle couriers to earn extra cash. For example, a group of experienced bicycle couriers argued:

"We acknowledge that there are irresponsible couriers in our ranks. These are almost totally new couriers who have this rebel image. Unfortunately, there is a high turnover of new couriers which exacerbates the problem." (Mr A. Hogan, Submission PED 291,

no page number)

2.30 The validity of such claims are unable to be assessed, because of the very significant problems involved in identifying bicycle couriers. Currently, bicycle couriers are not required to carry any form of identification. This particular issue will be examined further in [Chapter 3: The regulation of cycling, with a specific focus on the bicycle courier industry.](#)

The roles of pedestrians and motorists in incidents involving bicycle couriers

2.31 A concern of both representatives of the courier companies involved in the bicycle courier industry and the bicycle couriers themselves related to the behaviour of pedestrians and the behaviour of motor vehicle drivers in the Sydney central business district. In particular, jaywalking by pedestrians is a major hazard for bicycle couriers riding in kerbside lanes, and the failure of motorists to see bicycle couriers when turning left or when opening vehicle doors is also the cause of many crashes or near-miss incidents.

2.32 In STAYSAFE's view, these concerns over illegal or unsafe behaviour by pedestrians and motorists are often well-placed. Certainly, both the Roads and Traffic Authority and the New South Wales Police Service have been active in seeking to promote safe pedestrian behaviour, and the general programs to promote bicycle safety emphasise the responsibilities of both motorists and cyclists to ensure that riders are seen by drivers during turns or when opening vehicle doors.

2.33 However, it remains that much illegal behaviour by bicycle couriers still occurs, including riding through designated pedestrian-only areas, riding on footpaths, and disregard for traffic signals and signs.

Concluding comments

2.31 Based on the evidence presented to STAYSAFE, it is clear that bicycle courier work has grown to be a profitable industry servicing the needs of the Sydney business community. But at the same time, the bicycle courier industry has developed a reputation for defiance of community standards applying to public conduct. This is particularly so regarding observance of traffic law and local council requirements designed to facilitate pedestrian movement.

2.32 There is a clear need to review the nature of the bicycle courier industry, examining the industrial environment in which courier work is performed, the need for better traffic management to reflect the demands of cycle movements in the Sydney central business district,

and the need for better regulation and enforcement of riders who choose to ignore traffic laws in the performance of courier work.

3

THE REGULATION OF CYCLING, WITH A SPECIFIC FOCUS ON THE BICYCLE COURIER INDUSTRY

Issues in industrial regulation of the bicycle courier industry - Police enforcement of bicycle courier activities - Penalties for cycling offences - Increased penalties for commercial cyclists? - Multiple infringement notices for bicycle offences - Towards a recorded warning or cautioning system - Unreported crashes and other incidents involving bicycle couriers - The identification of bicycle couriers - The Sydney City Council scheme - The Department of Transport scheme - The need for a mandatory scheme - Bonds for bicycle couriers - Demerit points - A code of conduct? - Concluding comments

3.1 The need for effective regulation of bicycle courier activities is an overriding issue of concern in any examination of the safety of bicycle couriers and other road users. STAYSAFE has examined a number of aspects of the appropriate regulation of the bicycle courier industry. As well, STAYSAFE has examined the penalties that should be applicable to bicyclists and in particular, bicycle couriers relative to penalties applying to other road users, and reviewed the need for accreditation of bicycle couriers or courier companies. STAYSAFE also has examined the changes required for the effective enforcement of safe bicycle courier activities, including identification requirements and power for police to demand identity documents, and a revision of the penalty structure for cycling offences.

3.2 It is clear that the effective exercise of control over the bicycle courier industry must depend upon a number of interventions: interventions of general applicability at the industry level, interventions that target inappropriate behaviour by individual riders, and interventions that seek to minimise or removal the potential for conflict between bicycle couriers and other road users seeking to move about the Sydney central business district.

Issues in industrial regulation of the bicycle courier industry

3.3 In recent years there have been significant industrial concerns in relation to the courier industry in general, and bicycle courier activities in particular. The rates of pay for courier work and the working conditions of bicycle couriers have been the subject of debate in Parliament, the media, and the community. Repeated attempts have been made to provide an adequate framework for the safe and efficient performance of bicycle courier work, but without success (see [Appendix A: Bicycle couriers and industrial regulation](#)).

3.4 To date, the bicycle courier industry is without any specific industrial regulation. Constable (1995) commented:

"The Industrial Relations Act of 1991 does not guarantee minimum award wage conditions for the riders, therefore the riders are open to abuse from the industry. Most courier companies employ riders as independent contractors and therefore they are not protected by the Transport Industry [Interim] State Award. This award guarantees the riders a minimum weekly gross wage of around \$384.00 but as most couriers are independent contractors the courier companies do not have to adhere to the regulations.

With the current economic and employment conditions, I pity the riders for there are many wishing to fill their shoes if they disagree with the current conditions, in particular foreigners on a working holiday." (p.10).

3.5 This view was confirmed in evidence from representatives of the Courier and Taxi Truck Association, and the representative of Bicycle New South Wales. It is clear that the parties with an intimate involvement in the bicycle courier industry and in cycling in general believe that effective industrial regulation of the bicycle courier industry is necessary to allow for some improvement in the safety and efficiency of the industry.

3.6 The Industrial Relations Bill 1996 makes provision to enable contracts of carriage to have application for motor vehicles and for bicycles. The Bill provides for:

As.309 Contract of carriageCmeaning

- (1) For the purposes of this Chapter, a contract of carriage is a contract (whether written or oral or partly written and partly oral) for the transportation of goods by means of a motor vehicle or bicycle in the course of a business or transporting goods of that kind by motor vehicle or bicycle ...@

3.7 The effect of this provision, if enacted in this form, is to include bicycle couriers and courier work involving carriage by bicycle within the ambit of industrial law within New South Wales in such a manner as to allow those persons involved in the bicycle courier industry to have access to the Industrial Commission for determinations.

3.8 STAYSAFE has noted an argument that the purpose of the Chapter 6 provisions regarding contracts of carriage in the Industrial Relations Act 1991 was to provide for individuals and companies engaged in courier work to be reasonably protected with regard to

any substantive capital investment that might be required. Regardless of the worthy intent of the provision in seeking to protect persons entering into courier work and who make substantial investment in vehicles and other capital resources, the history of the serial creation of loopholes which allowed courier companies to circumvent the protective purpose of the legislation is indicative that the full impact of the contract of carriage provisions was not recognised in the drafting stages.

3.9 STAYSAFE is concerned that the economic forces that have created the bicycle courier industry as a financial viable aspect of the general courier industry might seek to exploit further loopholes in industrial relations legislation covering contracts of carriage. One class of vehicle that remains after loopholes such as the Amotor vehicle loophole¹ are removed is the toy vehicle class (including rollerblades, skate boards, etc.). Toy vehicles may be utilised by courier companies who wish to adjust the pricing for clients for courier work, and the payments for individual couriers for courier work, in order to attract maximum market share and to earn maximum profit.

3.10 This continuing situation of loopholes being found and exploited within in industrial relations legislation designed to provide for contracts of carriage allowing a fair day's pay for a fair day's work² for people working in the courier and transport industry is clearly not appropriate.

3.11 STAYSAFE suggests that an alternative to the loopholes such as the Amotor vehicle loophole¹ would be for new legislation to refer to 'vehicles' in the provisions for contracts of carriage. STAYSAFE recommends that the new Industrial Relations Bill 1996 should make provision for contracts of carriage to have application for motor vehicles, bicycles, and any other form of vehicle which might be adopted or adapted for use in courier work.

RECOMMENDATION 1: The Attorney General consider the use of the term 'vehicle' in the definitional provisions of Chapter 6 of the Industrial Relations Bill 1996 relating to contracts of carriage, rather than use of the phrase 'motor vehicle or bicycle'.

3.12 As noted in Chapter 2: Background to bicycle courier activities in the Sydney central business district, which provided a summary of the history and development of bicycle courier activities in the Sydney central business district, the riders themselves have attracted a reputation for disobeying traffic law and other laws relating to public behaviour. In response, there have been a number of initiatives introduced to ensure the bicycle couriers' compliance with traffic and other laws, and to increase the safety of pedestrians, other bicyclists, motorists and the bicycle couriers. These initiatives have included police enforcement campaigns, as well as more general attempts to provide a management framework for safer bicycle courier activities.

Police enforcement of bicycle courier activities

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3.13 On the available evidence, it is clear that bicycle couriers themselves are unconvinced that the traffic offences they commit during the course of their working day are to be seriously regarded as crimes². This has obvious implications for any strategy developed for effective policing of inappropriate behaviours by individual riders.

3.14 Police have dual role regarding bicycle courier activities. Police are responsible for enforcing laws relating to public safety and the orderly movement of traffic, and police are also responsible for recording information regarding crashes involving road users (vehicle occupants, bicyclists, and pedestrians, who may or may not have been injured) and vehicle or property damage.

3.15 As noted in Chapter 2: Background to bicycle courier activities in the Sydney central business district, it is likely that there is significant underreporting of the problems associated with inappropriate and illegal behaviour by bicycle couriers.

3.16 Enforcement campaigns targeting bicycle courier activities have become a feature of policing in the Sydney central business district in the 1990's. Over the twelve month period between October 1994 and September 1995, police issued some 798 traffic infringement notices for bicycling offences in the Sydney police district, which substantially overlaps the Sydney central business district and its surrounds.

3.17 Initially, police concentrated enforcement efforts on 'plain clothes' operations, using police bicyclists from patrols throughout Sydney who volunteered to work single-day operations in the Sydney central business district. However, the New South Wales Police Service has now established a uniformed bicycle police presence in the Sydney central business district, based at The Rocks police station. The combination of uniformed and 'plain clothes' police bicycle patrols should complement and extend the operational effectiveness of the police presence in the Sydney central business district generally, and the enforcement of safe and legal behaviour by cyclists specifically.

3.18 Constable (1995) has described some of the enforcement actions taken by the New South Wales Police Service to address concerns over bicycle courier behaviour:

"Police have implemented a number of operations to combat the illegal riding activities. These operations have been initiated from both the district and patrol level, and [the] operational orders drawn up outline the targets and goals of the operation, that is, to reduce the incidents and [to] encourage an improvement in rider behaviour of the couriers.

2

Put simply, a crime is any act committed in violation of a law that prohibits it and that authorises punitive action in response (see, e.g., Wilson & Herrnstein, 1985), but society distinguishes between serious crime and less serious crime. Indeed, the distinction in New South Wales law between traffic offences under the Traffic Act 1909 and 'serious' traffic offences under the Crimes Act 1900 underlines this dichotomy.

Operation code name 'Harpoon' was introduced at a patrol level at the City of Sydney police station. Increased public complaints and intelligence indicated an on-going problem with the bicycle couriers as well as ... thefts from motor vehicles. The patrol tactician directed Operation Harpoon, which consisted of two plain clothed police officers on two Roads and Traffic Authority funded bicycles to concentrate on these two areas. The operation was assessed as the best alternative to utilise the limited patrol resources.

Operation Harpoon was introduced on 12 May 1993 and since then has been an ongoing operation ..." (p.11)

3.19 Because of a lack of police resources, policing of bicycle laws, specifically in respect of bicycle couriers, has only been done on a part-time basis. The plain-clothes Sydney district bicycle squad was only active one day in every four to six weeks. Hopefully, with the formation of a uniformed bicycle policing presence in the Sydney central business district, the enforcement of traffic laws, as far as bicycle couriers are concerned, should be more consistent.

3.20 STAYSAFE recommends that the New South Wales Police Service continue to support the use of uniformed and 'plain clothes' bicycle patrols in the Sydney police district, with specific tasking for enforcement of illegal bicycle courier activities as well as tasking in other areas of crime control, as needed.

RECOMMENDATION 2: The New South Wales Police Service continue to support the use of uniformed and 'plain clothes' bicycle patrols in the Sydney police district, with specific tasking for enforcement of illegal bicycle courier activities as well as tasking in other areas of crime control, as needed.

Penalties for cycling offences

3.21 As noted in STAYSAFE 12 (1988), police have two main procedures for dealing with cyclists apprehended for disobeying traffic laws, either by issuing a traffic infringement notice under the self-enforcing infringement notice system (SEINS), or by issuing a caution. Traffic infringement notices are predominantly used for cyclists aged 16 years or over, while cautions are typically used for children aged under 16 years.

3.22 The current penalty for proven cycling offences is a monetary fine of \$39, with no demerit points associated with offences. STAYSAFE found the following exchange between Mr Small MP and Senior Sergeant McConville, a witness representing the New South Wales Police Service, to be instructive:

Mr SMALL (STAYSAFE): What penalties are there at the present moment? I

—

assume that penalties are applicable to any bike riders, rather than particularly to couriers. Would you like to make any comments about that?

SENIOR SERGEANT McCONVILLE: Yes, I would indeed. All pushbike offences at the moment are subject to the self-enforcing infringement notice system, which, as people would recognise, is the on-the-spot fine. The penalty for all offences for pushbikes is \$39.

The comment I would like to make there is that it is generally recognised by the public that penalties applicable to offences reflect the seriousness of the offence. If I can give an example A motorist travelling in excess of the speed limit, but less than 15 kilometres per hour over that speed limit, can be fined \$103, which is considered reasonably serious. If that same motorist was travelling at 45 kilometres per hour over the speed limit, we would view that as considerably more serious, and that motorist would be liable to a fine of \$635.... Had that same motorist been driving a tourist coach, and committing those same offences, the community would view that as more serious again. And the penalties do reflect that. In the first instance, the driver would be liable to a fine of \$158, and for exceeding by more than 45 kilometres per hour, \$954.

The bicycle offence of \$39 should be compared to the most minor penalty applicable for the driver of a motor vehicle, which is \$55, for driving contrary to a light traffic thoroughfare sign; or, the next lowest fine, for not displaying registration labels, it is \$61. So the penalties at the moment applicable to pushbikes reflect that they are not viewed as being very serious.

Mr SMALL (STAYSAFE): Where is the actual penalty of \$39 applicable, because you are very rarely going to get anyone travelling at more than 60 kilometres an hour on a bike? Is the fine applicable to riding on a footpath, or where can you actually apply the fine?

SENIOR SERGEANT McCONVILLE: I do have a full list of the pushbike offences. I will just go on from there. For the offence of disobey traffic control light, the driver of a motor vehicle would be liable to a penalty of \$184. For the same offence by a pushbike rider, the penalty is \$39.

The Hon. J. H. JOBLING (STAYSAFE): Can you pick him up, though? If he goes through a red light camera, what do you do?

SENIOR SERGEANT McCONVILLE: Yes, that is one of our problems.

MR GIBSON (CHAIRMAN): So, in essence, what you are saying is that the penalty is too lenient, that it is not working as a deterrent?

SENIOR SERGEANT McCONVILLE: That, again, is a bit of a quandary. That penalty may be considered all right for the recreational rider, or someone riding a pushbike to commute, but the question I think that needs to be asked is whether that

penalty actually should be applicable to professional bike riders. (Minutes of Evidence, 23 October 1995, pp.5-6)

3.23 STAYSAFE believes that the penalty imposed for proven cycling offences is inadequate for general cyclists, and particularly inadequate for commercial cyclists such as bicycle couriers. STAYSAFE recommends that the penalty for proven cycling offences should be a monetary fine of substantially more than \$39.

RECOMMENDATION 3: The Minister for Roads amend the Traffic Act 1909 and any associated statutory rules, as applicable, to provide for a penalty for proven traffic offences while riding a bicycle to be a substantial monetary fine.

3.24 In fact, STAYSAFE is of the view that the penalties for cycling offences should be commensurate with the penalties for similar offences while driving a light motor vehicle, that is, a substantial monetary fine and that, for adult cyclists, demerit points should be recorded against the drivers licence record when a cycling offence is found to be proven and the rider is able to be identified.

Increased penalties for commercial cyclists?

3.25 STAYSAFE is aware of a view among cyclists and others working in the area of bicycle use that accepts that the current penalty structure for proven traffic offences involving the use of a bicycle is in need of reform but argues that the penalty structure should distinguish the use for which the bicycle travel is being undertaken. According to this view, proven traffic offences involving the use of a bicycle for commercial purposes should attract more severe penalties than proven traffic offences involving the use of a bicycle for recreational or commuting purposes. For example, the New South Wales Police Service (Submission PED 142) suggested that the penalties for offences committed by 'professional' riders (i.e., commercial cyclists) should be the same as for driving motor vehicles.

3.26 This view is not accepted by STAYSAFE, as, in general, traffic offences incur penalties that relate to the type of vehicle being driven, not the type of activity being undertaken involving the use of that vehicle. For example, the driver of motor vehicle being used for private purposes does not incur a lesser penalty for a traffic offence than if the vehicle was being driven for work-related purposes.

3.27 As well, STAYSAFE envisages considerable difficulties in correctly identifying miscreant cyclists who are engaged in riding a bicycle for commercial purposes (particularly if the bicycle courier is not complying with any identification system that might be in force).

RECOMMENDATION 4: The penalty structure for offences involving the use of a bicycle

should apply to all classes of cyclist, and not distinguish between commercial cyclists, commuter cyclists, recreational cyclists.

Multiple infringement notices for bicycle offences

3.28 During the course of obtaining evidence from police witnesses, Senior Constable Muscat indicated that during police operations targeting bicycle couriers specifically, some 60-70 traffic infringement notices would be issued each day, on average.

3.29 In later evidence, representatives of the bicycle courier industry commented that individual bicycle couriers were often issued with several traffic infringement notices at the one time, relating to different offences having occurred concurrently:

The Hon. A. B. MANSON (STAYSAFE): "Mr Pearce, you have just said that it is only a minority of riders who do the wrong thing. Do you honestly expect this Committee to believe that? We have listened to a lot of witnesses todayCpolice includedCthat when police go out, in one day they will book 50 or 60 bicycle couriers for various breaches. Do you honestly expect us to believe that there are only a handful of people doing the wrong thing?"

Mr PEARCE: "I am not sure if you are talking about a pushbike courier who has a broken light. It depends on the actual charge laid against the courier. If he is going through a red lightC"

The Hon. A. B. MANSON (STAYSAFE): "We are talking about breaches of the road regulations, going on footpaths, going through red lights, and going the wrong way in a one-way street, for instance."

Mr PEARCE: "I am at a disadvantage because, for the past four or five years, I have not seen at first hand that number of breaches in one day. I have not seen anything like that at all. I am not aware of there being 50 or 60 breaches a day by pushbike couriers. I would be very surprised if that was the case. (Minutes of Evidence, 23 October 1995, pp. 51-52)"

3.30 Mr Pearce later commented:

Mr PEARCE: "May I mention something to Mr Manson in respect of his question earlier about 50 or 60 offences in a day. I had a situation where one of our fellows was booked with five separate charges, but it was only for one matter that he was pulled up. That may explain what I was saying, that they were in the minority. There might be four or five charges against the one rider, not four or five riders being charged."

(Minutes of Evidence, 23 October 1995, pp.58-59)"

3.31 Subsequently, STAYSAFE asked the New South Wales Police Service if a representative copy of a daily charge sheet for a bicycle courier enforcement operation could be forwarded, in order that the question of multiple offences by one individual at one time could be resolved. For example, a bicycle courier could be issued with an infringement notice for failure to wear a helmet at the same time as receiving another infringement notice for riding contrary to notice.

3.32 Senior Constable Muscat replied, in a memorandum to the New South Wales Police Service's Traffic Services Branch dated 15 November 1995:

"The [STAYSAFE] Committee has requested further information on the number of bicycle couriers that are issued multiple traffic infringement notices during plain clothes Sydney District bicycle operations. My reply is that I do not keep comprehensive statistics as I have never been required to. I only keep statistics on the number and type of offences detected by Police. These results I fax to Senior Sergeant McConville at the conclusion of each operation. The Police involved in these operations conducted by me are from various Patrols throughout the Sydney Police District and these Police issue traffic infringement notices from their own traffic books.

I can however, speak on my own experience as an operational Police bicycle rider. In my operations, about 2 the offenders are issued with at least two infringement notices on each occasion, as when they are pursued by Police, they normally breach more than one traffic regulation." (p.1)

3.33 STAYSAFE has been told of one bicycle courier who received fifteen traffic infringement notices in one extended incident, after a series of illegal actions were observed during a police enforcement operation following initial detection and prior to ultimate apprehension by police. While it is unlikely that an incident where such a number of traffic infringements were issued would be detected commonly, it is probable that several traffic infringement notices could arise out of a single incident. , as it is not uncommon for a bicycle courier to attempt to outride or elude police. It was, after all, the difficulties associated with police enforcement on foot or by vehicle that led to the development of bicycle police operations in the Sydney central business district.

3.34 STAYSAFE believes that it would be appropriate for the New South Wales Police Service to continue to compile statistical information relating to operations involving the enforcement of traffic law with regard to bicycle couriers, and to ensure that this statistical information is available in a form that allows problem areas associated with bicycle courier activities to be identified quickly. For example, if amendments to the Traffic Act and regulations, as recommended by STAYSAFE, are implemented, there is a need to monitor and, ultimately, evaluate the effectiveness of the changes in law in controlling and minimising misbehaviour of bicycle couriers and other road users. Such a monitoring process must depend on the gathering of reliable and relevant information.

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RECOMMENDATION 5: The New South Wales Police Service:

- (a) continue to compile statistical information relating to operations involving the enforcement of traffic law with regard to bicycle couriers, and
- (b) ensure that this statistical information is available in a form that allows problem areas associated with bicycle courier activities to be identified quickly.

Towards a recorded warning or official cautioning system

3.36 As noted in STAYSAFE 12 (1988), police had two main procedures for dealing with cyclists apprehended for disobeying traffic laws, either by fixed penalty traffic infringement notices, or by the issue of a caution. Traffic infringement notices are predominantly used for cyclists aged 16 years or over, while cautions are typically used for children aged under 16 years. It appears that the use of the cautioning system for cycling offences has been discontinued.

3.37 The development of an official cautioning system, of the kind suggested by Ireland (1991) several years ago, might be suitable for use in any policing strategy associated with bicycle courier and general cyclist activities. Ireland argued for the establishment of a citation notice system to be used, as appropriate, by police in place of cautions, infringement notices, expiation notices, court attendance notices, and arrest and charge. He proposed that the use of a citation system would increase police efficiency, and reduce court caseloads and delays in court appearances.

3.38 Ireland (1991) proposed that the citation notice, which would be carried by all police officers, would allow for recorded warnings (cautions) for minor first offences, fixed penalty infringement notices, and 'street summonses' requiring a person to attend court to answer a charge. Arrest and charge would remain, but would apply to serious offences, with the citation notice serving as the standard response for minor offences (including most traffic offences). Of course, the citation notice would retain a provision for an offender to elect to take the matter to a court hearing if that was desired.

3.40 STAYSAFE believes that the adoption of a citation notice system would have the effect of broadening and strengthening the deterrent process regarding traffic offences. A common but misguided criticism of traffic enforcement is that it is oriented towards 'revenue raising' primarily, with road safety and crash prevention as secondary goals. An official cautioning system, where cautions are given and recorded against a driver's licence record, provides for enforcement strategies that are at the same time lenient for first offenders and punitive for repeat offenders. For example, a driver might be permitted one recorded caution for an offence within a prescribed period of time, and any further offences within the period would attract monetary fines and demerit points recorded against the driver licence record.

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3.41 A number of areas where the use of a recorded warning or official cautioning system would be applicable have been identified. These include speeding offences for motor vehicles where the illegal speed was less than 10 km/h over the posted speed limit, and also for cycling and pedestrian offences. The problems associated with bicycle courier activities in the Sydney central business district, and with pedestrian movements in the Sydney central business district, could be better addressed if a recorded warning or official cautioning system was available. Recorded warnings or official cautions provide an increased flexibility of response by police when dealing with minor traffic offences.

Unreported crashes and other incidents involving bicycle couriers

3.41 In STAYSAFE 12 (1988), it was found that a substantial proportion of bicycle crashes and bicycle injuries in the general population were not reported to police or recorded in official road traffic crash and injury statistics. This finding was based upon marked inconsistencies between police reports and hospital admissions data.

3.42 STAYSAFE examined if a similar situation might exist regarding bicycle incidents in the Sydney central business district. STAYSAFE acknowledges that any such examination includes not only incidents involving bicycle couriers, but also incidents involving the general cyclist travelling within the Sydney central business district.

3.43 STAYSAFE questioned police witnesses regarding unreported bicycle incidents:

The Hon. J. H. JOBLING (STAYSAFE): "You have responded to those formal complaints. Clearly, there must be a very large number of non-reported incidents out there. In your opinion, or your colleagues' opinion, how big is that unreported section?@

SENIOR SERGEANT McCONVILLE: "I believe that the concern is great. A number of complaints I get while walking down the street, or when I tell people that I am in charge of traffic in the city area. I normally get asked what am I doing about those bicycle couriers.@

The Hon. J. H. JOBLING (STAYSAFE): "I am looking at just the minor accidents, the scrapes and near bumps.@

SENIOR SERGEANT McCONVILLE: "The concern that I have with the police accident statistics involving bicycle riders and pedestrians is that I believe a large number of those accidents do not get reported to police. I have not checked, but I would be interested in seeing the statistics from the Health Department of casualty visits to hospitals, where treatment is being sought for minor incidents. I believe that those

statistics may give a better indication of the accident statistics than police have. (Minutes of Evidence, 23 October 1995, pp.3-4)

3.44 Police data regarding reported crashes involving bicycles within the Sydney police district over the period January 1994-September 1995 shows that the majority of bicycle crashes were reported in the City of Sydney, The Rocks, and Surry Hills patrol areas. Tragically, these crash data contained two fatalities where bicycle couriers were implicated (one bicycle courier killed, and one pedestrian killed). Interestingly, police indicated that self-reported crashes using the P5 form that involved a bicycle tended to be bicycle-motor vehicle crashes. This seems to suggest that injury crashes where a bicycle rider was involved might be more likely to involve a pedestrian.

3.45 STAYSAFE did not investigate hospital admissions data. Although Sydney Hospital operates a casualty section which treats injury patients from the Sydney central business district, it seems likely that persons with minor injury from an crash involving a cyclist or bicycle courier, but who are still ambulatory, would visit other medical facilities outside of the Sydney central business district. Unlike the situation examined in STAYSAFE 12 (1988), where injuries resulting from bicycle use were examined State-wide, it was seen as unlikely that an examination of hospital admissions data would reveal meaningful information regarding crashes involving bicycles in the Sydney central business district alone. However, STAYSAFE accepts that, on balance, a substantial number of incidents involving bicycles in the Sydney central business district are unreported.

The identification of bicycle couriers

3.46 A major issue arising out of police operations to enforce traffic law regarding bicycle courier operations is the difficulty that police have, or any ordinary citizen has, is identifying individual bicycle couriers, or even identifying a rider as being a commercial cyclist rather than a recreational or commuter cyclist. There is a case for separating commercial cyclist from the recreational and commuter cyclists, and requiring the commercial cyclist to comply with registration and identification requirements in order to perform courier work.

3.47 STAYSAFE noted that only about one-third of the fines imposed for bicycle offences are actually paid. Statistical data relating to the 798 traffic infringement notices issued in the Sydney district for bicycling offences over the period October 1994-September 1995 indicated that, on average, only 35% of fines imposed for bicycle offences are paid anyway, ranging from a low of 10% of fines issued in September 1995 paid through to about half of the fines issued in April, July and August 1995 being paid.

3.48 Inspector Lester, representing the New South Wales Police Service, indicated to STAYSAFE that:

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INSPECTOR LESTER: "We cannot identify the people. So we consider that part of the solution could be the commercial riders' identification certificate. We consider it should be a personal identification, rather than a bicycle identification. Perhaps we could wrestle, with the Committee, with the problem of having the whole industry commission driven. As I said before, rather flippantly, the \$39 fine at this stage is a reasonable investment those cyclists are making in delivery of their goods on time, because their job may be well worth more than \$39."

The Hon. J. H. JOBLING (STAYSAFE): "What other moves, or suggestions would you put to this Committee, if you had the ability to introduce them, that you would like to see introduced in this bicycle courier industry?"

INSPECTOR LESTER: "Basically, what we have just been speaking about: the identification of the cyclist, some sort of compulsory accreditation for the whole industry itself. It is an industry that is perhaps a little bit out of control, whether because it is commission driven, or simply because we cannot identify some of the cyclists. And also the penalties should be a bit more realistic for commercial operations like this. So basically, we are looking at three things."

The Hon. J. S. TINGLE (STAYSAFE): "I think you would agree that the identification would have to be visible?"

INSPECTOR LESTER: "Yes."

The Hon. J. S. TINGLE (STAYSAFE): "Whether it is personal or on the bike, it has to be clearly visible to anyone who has had an encounter with these people." (Minutes of Evidence, 23 October 1995, pp. 7-8)

3.49 Obviously, an effective identification system of identification of bicycle couriers will provide a mechanism whereby unpaid fines can be pursued.

3.50 The development of a system of reliably identifying bicycle couriers depends on the development of an overall management and administration system for bicycle courier activities. STAYSAFE is aware of two previous attempts to provide for the effective regulation of bicycle courier activities, one developed by Sydney City Council, and another, later attempt by the Department of Transport.

The Sydney City Council scheme

3.51 The earliest attempt to provide for the appropriate management of bicycle courier

activities was undertaken by Sydney City Council.

3.52 The scheme referred to in this report as the Sydney City Council scheme was a voluntary program providing a means of identifying individual bicycle couriers working for different courier companies, and establishing a self-regulating system involving both courier companies and bicycle couriers. In mid-1990 a working committee was established to develop methods and guidelines for the self regulation of the bicycle courier industry. The working committee included representatives of the courier industry, Sydney City Council, the New South Wales Police Service and the Roads and Traffic Authority. The working committee identified so-called 'no-go' areas where riders should not enter, and developed a code of conduct for riders and the courier companies. Following the working committee's recommendation, Sydney City Council adopting a voluntary licensing system for bicycle courier companies in late 1990.

3.53 Under the self-regulatory arrangement of the Sydney City Council scheme, complaints about individual bicycle couriers were to be referred to the relevant courier company for action. The bicycle couriers were identified by a unique number plate attached to the rear of their bicycles. Courier companies undertook to maintain a daily register of the name and address.

3.54 By the end of 1992 the Sydney City Council scheme had collapsed. In an internal briefing note on bicycle couriers, Mr Ismay of Sydney City Council's Executive Co-ordination Unit commented:

There has not been a licence issued in over 12 months. There has been no substantial improvement in the conduct of bicycle couriers over the period, including licensed and non-licensed persons. Council still receives complaints of discourtesy by riders and injury to pedestrians. (Briefing note to Ms Katie Lahey, General Manager, 8 February 1994)

3.55 Constable (1995) has provided further evaluative comments regarding the Sydney City Council scheme. He wrote:

"In September 1990, the Sydney City Council ... introduced a number plate identification scheme aimed at regulating the riding activities of the bicycle couriers operating in the central business district. The scheme was voluntary in nature and relied on the co-operation of the courier industry in briefing its riders on the appropriate traffic regulations. Both this scheme and the 'code of conduct' involved input from the courier industry and the initial response looked promising." (p.3)

He continued:

"The number plate identification scheme and the 'code of conduct' were introduced in response to an increasing number of complaints from the general public regarding the hazardous riding activities of the bicycle couriers on the roads, pedestrian malls and footways. Police also responded to these complaints, but results proved to be below expectations due to the couriers' speed, manoeuvrability, and the lack [of reliable means] of identifying offending riders. Unfortunately, the scheme ... has proved to be unsuccessful, and this can be traced directly to the unwillingness by the riders, and to some extent by the courier companies that they represent, in not complying with its

requirements and that of the law. Identification has proved difficult, with the cyclists removing their number plates and the companies not complying with the maintenance of the daily register. The overall system introduced was only voluntary in nature and did rely heavily upon the courier companies to regulate their riders' activities, supplemented by the police enforcement. This voluntary scheme was promoted as a parallel theme with that of the community-based policing philosophy, with similar objectives in mind such as promoting better relations between the police and the community and the courier industry. Unfortunately, the requests for the courier industry to clean its act would seem to carry little weight with the industry. In fact, some sections of the courier industry regarded the scheme as that of a joke." (pp.5-6)

3.56 Constable's (1995) conclusion is borne out by the statement of Ms Katie Lahey, then General Manager, Sydney City Council, in 1994 that:

AA voluntary bicycle courier number plate identification scheme was introduced by Council in 1989 but has been unsuccessful in curbing the hazardous riding activities of these couriers, as evidenced by an increasing number of complaints from the general public, including reports of pedestrians being injured. It would appear that voluntary schemes and codes of conduct carry little weight with the courier industry. (Letter to the Hon. Bruce Baird MP, Minister for Transport, 10 February 1994)

3.57 Despite the failure of the scheme, Sydney City Council has continued to play an active role in seeking to manage bicycle courier activities effectively, efficiently, and with safety.

The Department of Transport scheme

3.58 In 1994, at the direction of the then Minister for Transport and Minister for Roads, the Hon. Bruce Baird MP, the Department of Transport moved to introduce a new scheme to improve the conduct of the bicycle courier industry. A discussion paper, drafted by the Department of Transport in mid-1994, suggested that the scheme could involve:

"... an identification system for bicycle couriers. One suggestion for consideration is the issuing of Bicycle Courier Identification Plates to be fixed to couriers' bicycles. An agency would be nominated by the Government. The Agency would issue these plates to courier companies which would be required to maintain records of the plates, particularly the proof of identification of plate-users." (New South Wales Department of Transport, 1994, p.1)

3.59 The detail of the proposal was for a Government agency to issue the bicycle plates to courier companies only, to keep records of the number plates issued to each company, and to set charges to recover the cost of issuing the plates.

3.60 Courier companies with an involvement in bicycle courier activities could then obtain the bicycle plates from the Government agency and be responsible for the keeping of a register of

each plate and to whom it was allocated, to ensure that each plate was returned to the company prior to the termination of each rider's employment, and to return all plates to the issuing Government agency prior to terminating its business. Courier companies would provide a space in the delivery dockets relating to courier work for couriers to fill in their bicycle licence plate number, thus facilitating the identification of couriers if a complaint of illegal or inappropriate behaviour was received from the public. Courier companies would also be responsible for the issue of proof of identity cards to bicycle couriers, and to maintain a register of the proof of identity cards.

3.61 Bicycle couriers would observe a code of conduct, which specified that each rider would obey the road rules, display the bicycle licence plates of their bicycles, carry their proof of identity cards at all time when engaged in courier work, and co-operate with police if apprehended for offences. Bicycle couriers should also ensure their bicycle licence plate number was written onto the delivery dockets.

3.62 The documents outlining the proposed pilot scheme also acknowledged that, in addition to the need to regulate the behaviour of bicycle couriers, there was a need to take action regarding the bicycle courier industry's concern for improvements in bicycle access to and within the Sydney central business district. Issues regarding bicycle access will be examined in the following chapter (Chapter 4: The bicycle courier industry and the future of cycling in the city).

3.63 Police witnesses commented on the Department of Transport scheme:

SENIOR SERGEANT McCONVILLE: "I was involved with the original liaison and meetings with the Department of Transport in setting up the scheme. There was quite a number of people involved in those committees, and the negotiations to set up the framework of the voluntary registration scheme took place over quite a number of months. From the Police Service, both Senior Constable Muscat and I visited the courier companies. I attended information sessions which were chaired by the Department of Transport. Those included a considerable number of the actual couriers and the courier companies that were working within the CBD, and it was outlined what the registration scheme entailed. It was quite a big job trying to sell the scheme. The basis of the scheme relied very much on the voluntary aspect of it. I guess the big whip that was held over them was that if they did not come on board on the accreditation scheme, at some stage in the future Parliament would legislate towards that." (Minutes of Evidence, 23 October 1995, p.9)

3.64 The Department of Transport commenced its trial scheme in December 1994. The scheme was called the Bicycle Courier Pilot Scheme, and the trial was intended to last for three months. Witnesses representing the Department of Transport described the scheme:

Mr MILLS (STAYSAFE): "I understand that the Department of Transport was the primary agency involved in that scheme. Could you describe the scheme in some detail

for the Committee?"

Ms FITZGERALD: "The primary problem with bicycle couriers that came to us was enforcing appropriate behaviour on the roads around the city area. The police and the council were saying that the difficulty for them is actually making offences stick. The problem was that there was no form of identification for couriers. When pulled up they often gave misleading names or addresses, and it was difficult to actually follow through on the enforcement.

So, using that as the main point, we developed, in consultation with agencies such as the Roads and Traffic Authority, the police, the Sydney City Council, and the courier companies themselves, a scheme whereby couriers would voluntarily register with the Department of Transport their details. They would be given an identifying sticker, containing a number, that they would wear on their helmets. They would agree, in doing that, to obey the road rules, wear the identification and assist the police and enforcement agencies when they were caught doing something wrong.

That pilot continued for a five-month period. Initially, it was going to be a three-month pilot, but it occurred over the Christmas period, and there were some initial problems with the actual form of identification when issued. So we got a more durable sticker issued to the couriers. We wanted to give it a bit longer to make sure that we were not assessing the form of sticker rather than the scheme itself. Over that time 66 couriers signed up with the Department of Transport, which was 49% of the couriers that we understood were in operation around the city at that stage.

A number of companies had decided that, to support the scheme, they would make it company policy that riders would have to register with the department. However, because it was only a voluntary scheme, a number of couriers did not sign up. Towards the end of the period people were not generally wearing the stickers, even though initially people had been identified with stickers on their helmets, I think because many couriers saw that others were not wearing them and had not signed up. Then it really just fell into abeyance." (Minutes of Evidence, 25 October 1995, pp.36-37)

3.65 During the initial three months of the pilot scheme, difficulties were experienced in gaining the participation of bicycle couriers, and this was exacerbated by the Christmas-New Year period falling shortly after the commencement of the trial. In addition, problems were experienced with the durability of the stickers used to identify the bicycle couriers. Under the scheme, bicycle couriers were issued with individualised identification in the form of a fluorescent numbered sticker which was to be attached to the back or left hand side of the courier's helmet. Following these problems, the pilot scheme was extended for a further two months, concluding at the end of April 1995.

3.66 The Department of Transport conducted a review of the trial of the Bicycle Courier Pilot Scheme, finding that the trial had indicated that the approach adopted had been unsuccessful. For example, of the estimated 120-150 bicycle couriers, only 66 registered under the scheme,

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and only 52 were actively and continuously working within the courier industry. The transient presence of a large number of overseas travellers working as couriers was confirmed, with 24 of the 66 riders (36%) being overseas travellers. In general, participation in the scheme was from riders working for the larger companies (i.e., Braggs, City Link, Crisis, Grace, Red Tag, Sanford and Top Gun) rather than from smaller companies, and only a few companies endorsed the scheme by requiring riders to register as company policy.

3.67 The trial of the Bicycle Courier Pilot Scheme had three objectives: to promote consistent and responsible behaviour within the bicycle courier industry in Sydney; to establish an identification scheme for bicycle couriers to aid enforcement; and to determine the workability of the scheme as common practice. It was found that the trial scheme had little effect on consistent and responsible behaviour within the bicycle courier industry in Sydney. The behaviour of the bicycle courier industry did not improve during the trial period, and, in fact, a bicycle courier and a pedestrian were killed during the trial period in two separate incidents involving bicycle courier collisions. The detection rate for traffic offences committed by bicycle couriers was not reduced, with an average of 53 traffic infringement notices being issued each month to bicycle couriers during the trial period. Public complaints to police, Sydney City Council, and the Department of Transport continued throughout the trial period. Following the argument advanced in preceding sections dealing with industrial regulation of the bicycle courier industry, it is not surprising that the behaviour of bicycle couriers did not improve during the trial period, as the conditions associated with the riders' employment and income generation did not alter, and riders continued to work within a system that promoted time for delivery as an overriding objective at the cost of compliance with traffic law. The identification scheme for bicycle couriers to aid enforcement was unsuccessful, with few bicycle couriers being sighted wearing the identification provided. Where the identification stickers were being worn, they were often attached to the top of the bicycle helmets or to seat attachments, presumably to obscure the registered numbers from view. Throughout the trial period, there was little evidence of compliance with the identification system. Police could not determine if registered couriers were, in fact, more likely to obey traffic laws, because the identification stickers were not being worn. In fact, the commonest offence of bicycle couriers that is detected by police is failure to wear a helmet: if the helmet displays the identification sticker and it is not being worn, then there is little chance of reliable identification even for riders who comply with the registration scheme. Based on these findings, the Department of Transport concluded that the trial scheme had failed, and therefore that there should be no extension of the scheme to become common practice.

The need for a mandatory scheme

3.67 Both the Sydney City Council scheme and the Department of Transport scheme placed primary reliance on voluntary compliance with the schemes. Police witnesses identified that the voluntary nature of the schemes may have been a major contribution to their lack of success:

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MR GIBSON (CHAIRMAN): "Did the police participate in the voluntary registration that took place, with the Department of Transport, some time ago? Could you give us a report on that, and whether it was successful or not?"

INSPECTOR LESTER: "We did participate to a fair degree. There was a lot of good work done in the initial stages on developing the ideas of identification and on speaking to the industry itself. It was basically organised by the Department of Transport, in conjunction with Danny McConville, who had a fair bit to do with it. Unfortunately, it did not work as well as it could have worked, and perhaps because it did not have the teeth that we have been talking about this morning."

MR GIBSON (CHAIRMAN): "So you feel if it had the teeth, it would definitely be a success?"

INSPECTOR LESTER: "It would stand a lot better chance of being successful, yes." (Minutes of Evidence, 23 October 1995, p.8)

Sergeant McConville continued:

SENIOR SERGEANT McCONVILLE: "If I may just go on from what Mr Lester has indicated. I had quite a deal of liaison with the Department of Transport in respect of that scheme. May I say that the Department of Transport did quite a lot of valuable work in trying to get that accreditation scheme up. It did rely on the couriers themselves becoming involved on a voluntary basis. With that, we had mixed success with the actual courier companies. Some of the courier companies were in favour of the accreditation scheme. Some of the others, I believe, would be happy with the status quo remaining as it is. The couriers themselves did not see any benefit in their being part of the accreditation scheme. They more or less said to us, "Why should we wear a number when it is not helping us one little bit." I think that is the reason why the scheme was perhaps not as successful as it should have been." (Minutes of Evidence, 23 October 1995, p.8)

3.68 This view was supported by other witnesses appearing in relation to the inquiry into bicycle courier activities. For example, representatives of the courier industry supported the need for effective regulation:

Mr THOMPSON (STAYSAFE): "We have heard today that the Sydney City Council and the Department of Transport have been involved in programs that have sought to regulate bicycle courier activities. What was the involvement of the Courier and Taxi Truck Association in those programs? Why, in your view, have those programs been relatively unsuccessful?"

Mr PEARCE: "The problem, we feel, is the identification of each individual. I tend to agree with the police on this matter in that it is very hard to identify a pushbike

courier. It is another thing to catch him. It is also a matter of cooperating with the council, the Department of Transport and the Roads and Traffic Authority to get everybody to do it. Not all companies that use pushbike couriers attended those meetings. Some of those riders are doing the right thing, giving their right identifications, and also carrying number plates. Back in 1990 they were carrying their numbers plates and doing the right thing, while others were doing the wrong thing, were not carrying number plates, and were getting away with it. The poor guys carrying the number plates were the only ones getting caught. Even though they did do something wrong, they were getting booked whereas the other people were not."

MR GIBSON (CHAIRMAN): "So you are saying there is a need for regulation so far as registration is concerned?"

Mr PEARCE: "Yes. They have got to be identified."

Mr MILLS (STAYSAFE): "One in all in, is it not?"

Mr PEARCE: "That is right. It is the same when taking telephone calls. I have taken calls from the public stating, "One of your couriers hit me." I do not know who is at the other end of the line, but I have to take that particular person's word. My first question is, "Are you sure he is a courier who works with this particular company?" "Yes, he is, most definitely." Then, an hour or two later, after I have done my investigation, I get a telephone call back saying he was not from this particular company but was with another company and wearing the same type of colours. So that is the problem, the identification of the person. Anybody can make a telephone call without backing it up, but without some form of identification it is very difficult to get that individual into the office and say, "Don't do that." That is the problem that we face at the moment."

Ms ROBERTSON: "We have come along to STAYSAFE today as an industry-specific organisation that certainly wants to make sure that the image of bicycle couriers is improved; that there is a set of regulations that are easy to live with; and, to quote Mr Mills, there is a situation of "one in all in". That even goes to the point that people we see cycling around the city could be doing that in their lunch time. It is not all couriers who operate on the streets." (Minutes of Evidence, 23 October 1995, pp.53-54)

3.69 The inability of persons working as bicycle couriers to be individually identified was a major contribution to the lack of success of the Sydney City Council scheme and the Department of Transport scheme. Mr Small MP, a STAYSAFE Member and a keen recreational cyclist, thought that registration schemes involving bicycle plates would not work because bikes can be changed very easily. An alternative identification scheme would be for commercial cyclists, such as bicycle couriers, firstly should be registered with a unique number, with the number being displayed prominently, so that the number could be clearly seen to identify any person breaking the traffic rules or behaving inappropriately or irresponsibly. Inspector Lester,

representing the New South Wales Police Service, agreed:

INSPECTOR LESTER: "Yes, I agree with that. I think the identification question really needs to be worked through. I consider, on the face of it, at this stage that identifying number and card should be personal. And, commensurate with that, we also need members of the Police Service and other organisations, like the Department of Transport, which may be charged with enforcing the rules, to be give power to request or demand the production of that identification."

The Hon. J. H. JOBLING (STAYSAFE): "With a photograph similar to public transport drivers?"

INSPECTOR LESTER: "Yes, I think so. We all have photo licences in actual fact now. It would be a small impost, I think, on the commercial operators, if you like, to get one of these produced. The technology is now there. It is easily done." (Minutes of Evidence, 23 October 1995, pp.9-10)

3.70 STAYSAFE notes that it is important to distinguish between licensing requirements and authorities to pursue a particular occupational activity involving the use of a vehicle. This issue was noted in STAYSAFE 26 (1994; see pp.118-119) in relation to bus driver licensing and bus driver authorities. An important aspect of STAYSAFE's examination of the safety of school child pedestrians around school buses was the examination of the role of the bus driver, particularly regarding the licensing and training of bus drivers under the Traffic Act 1909 and the Public Passenger Act 1990. To this end, STAYSAFE was been interested in the competencies required of bus drivers for the driving task itself and for the supervision of school child passengers. These competencies appeared to involve questions of the skills required to safely drive a medium-heavy vehicle on the road and in traffic, but also questions of what can perhaps be termed 'occupational' skills relating to the driving of a vehicle engaged in the conveyance of public passengers. The relationship between these two different categories of competencies or skills is unclear. At first glance, these skills appear separate and in a direct linear relationship (i.e., basic general driving skills overlaid by more specific occupational skills), but an alternative view would suggest that the relationship between the skill categories is substantially interactive (i.e., the occupational tasks required of a bus driver can affect the performance of the basic competencies required of a driver of a medium-heavy vehicle). STAYSAFE notes that the assessment of the tasks faced by bus drivers in supervising bus passengers on the bus and manoeuvring among pedestrians at bus stops and in bus zones is intended to take place through the driver authorities required under the Public Passenger Act 1990, not as part of the driver licensing process required under the Traffic Act 1909.

3.71 Translated to the debate over bicycle licences and rider authorities (i.e., identity or compliance documents), the question is one over the need for a specific bicycle rider licence or alternatively, an authority to conduct courier work or other commercial cyclist activities. Bicycle rider licenses would be required to enhance compliance with the law and to improve public and user safety with regard to bicycle control skills and knowledge of road law. The uses to which a

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bicycle is to be put, on the other hand, are based on this basic platform, and any specialist industry-based cycling requirements are more properly the province of an authority or a compliance document.

3.72 It is STAYSAFE's view that if a person is riding a bicycle then they are required to obey the rules of the road. STAYSAFE believes that there is no need to develop a cyclists licence. However, it would be appropriate for persons seeking to work as bicycle couriers to pass the Roads and Traffic Authority's computerised knowledge test, and, in fact, to hold a current New South Wales driver licence, as part of the eligibility requirements for a riding authority to perform bicycle courier work. Indeed, STAYSAFE believes that it is essential for tourists and interstate visitors seeking to enter the bicycle courier industry to undertake the computerised knowledge test, in order to ensure that they have a knowledge of traffic law in New South Wales prior to commencing bicycle courier work. STAYSAFE notes that such requirements are placed on drivers seeking to obtain a taxi drivers authority in New South Wales.

3.73 In summary, the problem faced with bicycle couriers is with the identification of the person who is disobeying the rules. The development of an authority to conduct courier work or other commercial cyclist activities would provide the mechanism for bicycle courier identification to be introduced. Linking the eligibility for a rider authority with the holding of a current New South Wales drivers licence creates a mechanism for linking offences detected during the performance of bicycle courier work with sanctions associated with a drivers licence. STAYSAFE agrees that the proposal advanced by witnesses that there is a need for the regulation of bicycle courier activities. The most important aspects of the regulatory framework required to control bicycle courier activities are for a mandatory registration scheme for persons seeking to work as bicycle couriers, and for a mandatory identification system for bicycle couriers.

3.74 STAYSAFE did not investigate the best method whereby such a regulatory system would be set in place, nor did it seek to establish comprehensive details of such a regulatory system. STAYSAFE does, however, draw attention to the several recommendations contained in this report that concern regulatory matters. Additionally, STAYSAFE would suggest that any identification scheme should require a unique identifying number to be worn by a bicycle courier and to be placed on the bicycle. This unique identification number on the bicycle and on the rider should be sufficiently large and visible to facilitate public identification of riders and to assist police enforcement. Further, the carriage of a riding authority similar to the taxi driver authority required for taxi drivers at work should be compulsory for any person working as a bicycle courier.

3.75 STAYSAFE does not propose who should be responsible for the regulatory oversight of bicycle courier activities. STAYSAFE notes that several public sector agencies were informally proposed as the agency to be responsible for the regulation of the bicycle courier industry. These agencies included the Roads and Traffic Authority, the Department of Transport, and the New

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South Wales Police Service. As well, it was also proposed that Sydney City Council could be the body responsible for the regulation of the bicycle courier industry. At its simplest, the registration and issuing of rider authorities for bicycle courier work could be an addendum to the normal driver licensing process carried out by the Roads and Traffic Authority. On the other hand, bicycle courier activities are but another means of transport that could be incorporated into the current transport administration system. There are a number of other modes of travel, such as taxi drivers, hire car operators, and motor cyclists wishing to carry tourists around the city, which are already administered through the Department of Transport. STAYSAFE notes that the New South Wales Police Service has a role in registering public information (e.g., the registration of firearms), and there may be advantages in having the registration agency also being responsible for enforcement activity. Finally, STAYSAFE notes that the problems associated with bicycle courier activities are centred on, but not completely limited to, the local government area administered by Sydney City Council, and that it may be appropriate for this body to be the primary agency for the regulation of the bicycle courier industry. This matter remains for further negotiation, but STAYSAFE notes the views of the previous Minister for Transport and Minister for Roads, the Hon. Bruce Baird MP that:

".... I believe that [an accreditation] scheme would be of great assistance to police and council officers responsible for ensuring compliance with the traffic regulations....

I have decided, however, that given its current involvement in the accreditation and licensing of public vehicles, it would be appropriate if the Department [of Transport], rather than the City Council, were to be the administering agency for the issue of accreditation documents. It would still be for council and the police to regulate couriers' behaviour, of course." (Letter from the Hon. B. Baird MP, Minister for Transport and Minister for Roads, to Ms K. Lahey, General Manager, Sydney City Council, 28 February 1994)

The Minister's view was supported by Sydney City Council subsequently, with the Department of Transport to be responsible for the accreditation of bicycle couriers, and police to be responsible for enforcement action.

RECOMMENDATION 6: The Government should take action to ensure the development and implementation of a regulatory system to ensure:

- (a) a mandatory registration scheme for persons seeking to work as bicycle couriers; and
- (b) a mandatory identification system for bicycle couriers.

RECOMMENDATION 7: The Government should take action to ensure that persons seeking to work as bicycle couriers must pass the Roads and Traffic Authority's computerised knowledge test.

3.76 Finally, STAYSAFE recognises that there is a need for the specific deterrence of bicycle couriers who continue to disobey traffic laws or who attempt to subvert the mandatory

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identification scheme for bicycle couriers.

3.77 STAYSAFE recommends that it should be an offence for bicycle couriers to perform courier work when not registered under a mandatory scheme for persons seeking to work as bicycle couriers, and that it should be an offence for a bicycle courier performing courier work to not carry identification identifying himself or herself as a bicycle courier. STAYSAFE also recommends that it should be an offence for any person to use false or stolen identification when conducting courier work.

RECOMMENDATION 8: It should be an offence for bicycle couriers to perform, or seek to perform, courier work when:

- (a) not registered under a mandatory scheme for persons seeking to work as bicycle couriers;**
- (b) not carrying identification identifying himself or herself as a bicycle courier; and**
- (c) using or seeking to use false or stolen identification when conducting courier work.**

3.78 While recognising the prerogative of the Government to establish the monetary penalties to be associated with cycling offences, STAYSAFE would suggest that an effective monetary penalty for offences associated with non-registration, failure to carry identification, etc., would be in the range of 1-5 penalty units (currently \$103-515).

3.79 STAYSAFE further recommends that the Minister for Roads amend the Traffic Act 1909, and related statutory rules, to allow the impounding of bicycles if a bicycle is being ridden in an unlawful manner by a commercial cyclist involved in the transport of goods. STAYSAFE notes similar recommendations by other Parliamentary road safety Committees (e.g., TRAVELSAFE 9, 1993).

RECOMMENDATION 9: That the Minister for Roads amend the Traffic Act 1909, and related statutory rules, to allow the impounding of bicycles if a bicycle is being ridden in an unlawful manner by a commercial cyclist involved in the transport of goods.

3.80 STAYSAFE notes that it may also be appropriate for other illegal cycling behaviour to result in impoundment of a bicycle, for example, if a bicycle is being ridden in an unlawful manner by a cyclist who has committed multiple traffic offences during the one incident, or if a bicycle is being ridden by a cyclist who seeks to elude or evade police apprehension.

Bonds for bicycle couriers

3.81 Earlier, STAYSAFE noted that only about one-third of the fines imposed for bicycle offences are actually paid. STAYSAFE proposes that a method by which the fines can be collected is to require a monetary bond to be lodged by bicycle couriers on entry into the industry

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(and, perhaps, reviewed on an annual basis). This suggestion was strongly supported by witnesses before STAYSAFE. For example, Mr Pearce, representing courier companies, stated:

Mr PEARCE: "New York has a system whereby if a person works as a pushbike courier there is what they call a bonding. It is an amount of money paid to the council or whatever body is in charge of the area. I do not know what sort of figure it is, maybe \$100 or \$200. That gives the right to work as a pushbike courier. If they do not have that bond, they cannot work as pushbike couriers..."

Mr MILLS (STAYSAFE): "What is the reaction of people in Australia to that idea?"

Mr PEARCE: "It has not been mooted, but I certainly give it full support."

MR GIBSON (CHAIRMAN): "It has been mooted here today quite frequently."

Mr PEARCE: "I would have no problems with it." (Minutes of Evidence, 23 October 1995, pp.57-58)

RECOMMENDATION 10: Bicycle couriers should be required to lodge a monetary bond as part of the process of registration for courier work, and unpaid fines for proven traffic offences incurred during courier work should be paid from such bonds.

3.82 It would be the prerogative of the agency charged with the responsibility of administering a bicycle courier registration scheme to set the quantum of the bond, but STAYSAFE would suggest that \$500 would be an appropriate and affordable sum.

Demerit points

3.83 A mandatory registration scheme providing for the identification of individual bicycle couriers, combined with a requirement for bicycle couriers to be the current holder of a New South Wales drivers licence, enables the penalty structure for bicycling offences to be amended to include provision for demerit points to be recorded against a bicycle courier's driving licence. As discussed in *Appendix A: Bicycle couriers and industrial regulation*, under New South Wales law a bicycle is regarded as a vehicle, and thus in technical terms a cyclist is a vehicle controller.

RECOMMENDATION 11: The Minister for Roads amend the Traffic Act 1909 and any associated statutory rules, as applicable, to provide that a penalty for proven traffic offences while riding a bicycle in the performance of courier work includes demerit points to be recorded against an offender's drivers licence record.

3.84 While recognising the prerogative of the Government to establish the number of demerit

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points to be associated with cycling offences, STAYSAFE would suggest that an effective penalty would be the recording of 3 demerit points against a cyclist's driver licence record.

A code of conduct?

3.85 An interesting contribution to the debate over bicycle courier activities was offered by the Bicycle Institute of New South Wales, who were particularly concerned to address the negative examples of cycling associated with bicycle courier activities. In late 1994, the Bicycle Institute proposed that a code of conduct be developed for the bicycle courier industry. Mr M. Thompson, representing the Bicycle Institute, indicated that the proposal provided for:

Mr M. THOMPSON: A... a code of ethics [to] be developed for the courier industry, and such code to be administered by Business and Consumer Affairs. The industry should then be invited to develop this, and it should be made clear that if it does not do so, the Government will develop the code for it. These companies who agree to comply would be listed as accredited companies, and governments should then deal only with these accredited companies, and encourage other users to do likewise. The Sydney City Council could support this by eventually attaching a condition to development application approvals that only accredited companies are to be used in the new buildings.@

A code of ethics would have included: first, all couriers must carry personal identification (Couriers who use motor vehicles, for example, already comply with this requirement; second, all couriers must carry company identification; and, and all courier vehicles must carry company identification.

The onus would be on the individual courier companies to ensure that their cyclist employees carry identification. (Minutes of Evidence, 23 October 1995, p.24)

3.86 Other proposals advanced by the Bicycle Institute included suggestions that breaches of traffic laws by cyclists be applied against any motor vehicle licence held by the offender, and suggestions for improvements in transport planning and the traffic network within the Sydney central business district. These issues are discussed in other sections of this report.

3.87 In essence, the proposal for a >code of ethics= advanced by the Bicycle Institute repeated the earlier approach under the Sydney City Council scheme, but provided for mandatory observance rather than the voluntary compliance of the earlier code of conduct. Constable (1995) described the code of conduct under the Sydney City Council scheme:

"The 'code of conduct' ... emphasised self-regulation and compliance with all requirements of [traffic and local government law] A common sense approach was envisaged with the cyclists complying with everyday requirements such as obeying traffic control signals, flow of traffic, and observing the rights of pedestrians and other road users." (p.4).

3.88 STAYSAFE remains unconvinced that the proposal of the Bicycle Institute regarding the development of a code of conduct would be effective. While a code of conduct would certainly a desirable feature of bicycle courier activity, it seems that the reformulation of the industrial relations context in which the industry operates, together with improved management and policing of the industry, would yield the safety benefits so obviously desired. The voluntary adherence to a code of conduct has already been proved to be an inadequate response. This is not to say, however, that the courier industry itself might not adopt a code of conduct as part of its compliance with any mandatory regulatory framework.

Concluding remarks

3.89 In a sense, the bicycle courier industry is very similar to the trucking industry. It is not a level playing field, and careful attention must be paid to establishing the contingencies which serve to dictate the behaviour of courier companies and of individual riders.

3.90 Courier companies, and particularly those courier companies who seek to maximise income from clients and minimise expenses associated with generating that income, are able to manipulate the environment in which they operate with relative freedom from regulation. The avoidance of minimum pay scales, avoidance of necessary payment contributions associated with employees, and the manipulation of hours of work provide a compelling argument for the introduction of a regulatory environment to create and enforce a level playing field amongst courier companies.

3.91 At the level of individual couriers, there is also a need to ensure that riders act lawfully. It is a simple and effective proposition: if you can't identify an individual courier, then you cannot enforce traffic law appropriately (or other law, as applicable), and you cannot follow up with any secondary action.

3.92 The voluntary systems of Sydney City Council and the Department of Transport and particularly the voluntary codes of conduct point to a failure of management strategies that are not backed by statutory powers and obligations. The experience with the Sydney City Council scheme and the Department of Transport scheme points to the need to create effective and efficient regulatory environments for both courier companies and the individual riders.

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THE BICYCLE COURIER INDUSTRY AND THE FUTURE OF CYCLING IN THE CITY

Bicycles in the Sydney central business district - Accessible city: An integrated transport strategy for central Sydney - Planning for bicycle access and safety - Traffic management for bicycle and pedestrian safety - Footpath cycling - Bicycle lanes - Other bicycle-friendly infrastructure - Wider transport and safety issues within the downtown Sydney area - Consultative and advisory bodies - Concluding remarks

4.1 In this chapter STAYSAFE examines future strategies that could be adopted to facilitate bicycle courier movements without compromising pedestrian safety or the safe and efficient movement of motor vehicles in downtown Sydney.

4.2 The focal nature of the Sydney central business district has led to continual assessment and planning of the transport function. The problems of motorised traffic movement are well documented, reasonably well understood, and a variety of options have been developed to address the needs of motorised and pedestrian traffic. Unfortunately, this is not the situation regarding bicycle movements.

Bicycles in the Sydney central business district

4.3 The situation regarding bicycle access, amenity and mobility within the Sydney central business district is less clear.

4.4 STAYSAFE was only able to identify one major planning study for bicycle movements within the Sydney central business district. Kinhill Pty Limited (1982) reported a study of regional bicycle planning involving a large area of the southern harbour, extending from Iron Cove in the west to the Pacific Ocean in the east, and from the boundaries of Eastlakes, Mascot and the airport in the south to the Sydney harbour foreshores. The Sydney central business district lies at the centre of this area.

4.5 Kinhill Pty Limited (1982) noted that:

There is little doubt that a large latent demand for cycling exists in Sydney as is evidenced by the number of cyclists using safe localities such as Centennial Park. Sydney has a climate which on most occasions is appealing to cycling and has, along the Sydney harbour foreshore, enviable vistas and fascinating built environments. (p.1)

4.6 Kinhill Pty Limited's focus was primarily on recreational cycling. Since Kinhill Pty Limited's report, it has become evident other forms of cycling are equally important. Commuter cycling has been identified as an alternative means of egress and exiting the city, in contrast to, or in some cases complimentary with, other forms of commuter transport (private motor vehicles, bus, rail and ferry transport).

4.7 Importantly, the 1990's has seen the development of commercial cycling—the use of bicycles as a means of transport for the conduct of work. The term commercial cycling has been adopted to distinguish work such as the transport of small items from the use of bicycles for professional, sporting reasons, in other words, professional cycling.

4.8 Interestingly, an effect of the development of commercial and commuter cycling into and within the Sydney central business district has been to belie the findings of Kinhill Pty Limited (1982) regarding hills as topographical constraints to cycling. Kinhill Pty Limited's report indicated that cyclists would have difficulty with hills with a slope of greater than 7% that extend for more than 100 metres. The northwestern and northeastern ends of the Sydney central business district qualify as difficult under Kinhill Pty Limited's analysis, but both commercial and commuter cycling have subsequently developed to use these areas.

4.9 Despite developments in bicycle usage to include commercial and commuter cycling in addition to recreational cycling, successive Sydney City Councils did not revise the 1982 bikeplan. In STAYSAFE's view, there is now an urgent need for Sydney City Council, in conjunction with the Roads and Traffic Authority, Bicycle NSW, Darling Harbour Authority, and other relevant organisations, to develop a bicycle plan that addresses the needs of cyclists in and around the Sydney central business district.

Accessible city: An integrated transport strategy for central Sydney

4.10 STAYSAFE is aware of a view that the bicycle courier service, as it has evolved in response to market demand, provides an economically efficient service to the business community. It could be said that this provides an efficiency in terms of Sydney's competitiveness in the national and international business community, and for a central business district of a Sydney's scale and geographic size. For example, bicycle courier activities are typically associated with cities such as New York, Washington, and London with large business or public sector communities, or with cities experiencing economic boom conditions, such as

Calgary in Alberta, Canada.

4.11 The alternative to bicycle courier work which allows for a similar rapid movement of document packages and other small parcels is to use motorised vehicles such as cars, motorcycles, etc.. In terms of motorised courier work, there must necessarily be a deterioration in terms of congestion, noise, and air quality, and a decline in these factors is contributory to a decline in accessibility and amenity within a circumscribed area such as the Sydney central business district.

4.12 It seems clear that the transport management objectives for the Sydney central business district must seek to control and, in fact, minimise road traffic growth. It is neither desirable nor feasible to allow the growth in motorised road traffic to continue to increase without check or review.

4.13 STAYSAFE has noted the release of an integrated transport strategy for central Sydney (Sydney City Council, 1995). This strategy seeks to define a blueprint for a truly accessible city, founded on such principles as:

- maintaining and enhancing central Sydney's current high level of accessibility;
- improving pedestrian safety, access and amenity in central Sydney;
- better managing private vehicle access to central Sydney to protect and enhance the pedestrian environment;
- improving bicycle access and facilities;
- pursuing opportunities for the redirection of surface traffic and service vehicles underground; and
- further upgrading of public transport to and within central Sydney.

4.14 The integrated transport strategy for central Sydney makes specific reference to bicycle courier activities under the general heading of improving the management of vehicle traffic:

While an essential part of Central Sydney's operation, bicycle couriers cause concern to pedestrians through their use of footpaths and their conflict with pedestrians at intersections. The licensing of bicycle couriers has recently been examined and a six month trial of a licensing system is now being evaluated (Sydney City Council, 1995, p.44)

Planning for bicycle access and safety

4.15 The integrated transport strategy for central Sydney also noted with reference to general cycling issues that:

Bicycle routes through Central Sydney are not easy to provide because of the relatively limited space available in Sydney's streets and potential conflict with traffic, particularly buses, which use the kerbside lane. Where possible, bicycle routes will be identified to connect with the identified bicycle network on major approaches to Central

Sydney.

A bicycle route will be provided along the western side of Market Street which connects directly to the bicycle overbridge from Pyrmont. @ (Sydney City Council, 1995, p.45)

4.16 An implementation plan under the integrated transport strategy for central Sydney provides for improved bicycle access on routes to and from central Sydney, and to provide facilities to accommodate bicycles at railway stations and at locations within central Sydney.

4.17 STAYSAFE believes that the implementation plan defined in the accessible city strategy (Sydney City Council, 1995) concerning the preparation of a bicycle access plan, integrated with other such bikeplans as appropriate, should be undertaken.

RECOMMENDATION 12: Sydney City Council, in consultation with the Roads and Traffic Authority, Bicycle New South Wales, and other relevant organisations and individuals, develop a bicycle plan that addresses the needs of all cyclists in and around the Sydney central business district, with a specific focus on:

- (i) ensuring that the needs of commercial cyclists (i.e., bicycle couriers) are considered as well as addressing the needs of commuter and recreational cyclists;**
- (ii) examining bicycle routes to, from and within the Sydney central business district with regard to the demands of commercial bicycle courier work for access throughout the area.**

4.18 STAYSAFE records that action regarding this recommendation is already in train (Sydney City Council, 1996). STAYSAFE notes that Rust PPK, a transport planning consultancy company, has been commissioned to develop the Sydney City bikeplan. Advertisements for public submissions were placed in metropolitan newspapers at the end of April 1996. Some of the points identified for consideration included:

- reviewing the conclusions of the 1982 inner Sydney bikeplan (Kinhill, 1982);
- developing a bikeplan that integrates bicycles within the transport system of the Sydney central business district and surrounds;
- proposing designs for bicycle facilities that are accessible, convenient and safe within the Sydney central business district (see Sydney City Council, 1995);
- linking any bikeplan for the Sydney central business district with the bicycle networks in the adjacent local government areas of Leichhardt and South Sydney;
- promoting the use of bicycles within the city; and
- recommending enforcement procedures for safe cycling within the Sydney central

business district, particularly in relation to bicycle couriers.

4.19 STAYSAFE also draws the attention relevant authorities to the recent publication of guidelines for incorporation of cycling into transport planning in the United Kingdom (Bicycle Association, 1996), that seeks to identify and describe best practice world-wide for roads and cyclists.

Traffic management for bicycle and pedestrian safety

4.20 STAYSAFE examined future traffic management strategies that could be adopted to facilitate courier movements without compromising pedestrian safety, including wider footpaths, designated cycling paths, and shared pedestrian zones, and also including roadway devices such as advanced stop lines for bicycles at signalised intersections.

4.21 The practical thrust of traffic management policy in New South Wales has been to ensure the separation of pedestrians from other road users, including both motorised traffic and bicycles. It is accepted policy among traffic managers to separate pedestrians from other traffic movements. This not only includes separation of pedestrians from mechanised traffic (cars, trucks, motorcycles, etc.), but also separation of pedestrians from cyclists.

4.22 Yet cyclists themselves are also vulnerable road users, and there is a need to separate them from motorised traffic.

4.23 Under New South Wales law, a bicycle is a vehicle (see *Walsh -v- Taylor* (1940) 57 NSW WN 148). Access to the roads of New South Wales is one of the most important aspects of bicycle use. However, with few exceptions the design of roads does not reflect the needs of cyclists, and the increases in traffic volumes on roads over the last decades have meant that cycling has become less, rather than more, attractive.

4.24 Successive Federal and New South Wales Governments have sought to promote cycling as a viable transport alternative, through developing policies that encourage the use of bicycles as an efficient form of personal transport in place of cars for short journeys (including commuting between work and home, as well as recreational cycling for shopping, social visits, or exercise). As examined earlier, Sydney City Council itself has sought to develop policies to promote cycling through the 'Accessible City' strategies. A key feature of the approaches at a Federal, State and local level has been to promote the development of cycle networks linking suburban communities and urban centres.

4.25 There is no prospect of developing a cycle network in the Sydney central business district that is comprehensive, direct, convenient and avoids existing roads. Put simply, there is no space for a separate cycle route development, and there are sparse resources available for any cycle

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route developments using the existing road infrastructure.

Footpath cycling

4.26 One possible solution that can be considered is to allow bicycle riders to use the footpaths and declared pedestrian areas currently dedicated to the exclusive use of pedestrians (Katz, 1994; Trevelyan & Morgan 1993). While the concept of separating vulnerable road users (bicyclists, pedestrians) from motorised traffic is not new, the question of whether to maintain the separation of bicyclists from pedestrians is problematic, with obvious advantages and disadvantages to both sides of the argument. The maintenance of a separation of bicyclists from pedestrians obviously minimises the likelihood of interaction between cyclists and pedestrians (and thus minimises the risk of impacts and injuries to both cyclists and pedestrians), but ideally this should not be done at the expense of increasing the likelihood of interaction between cyclists and motorised traffic (and thus increasing the risk of impacts between cyclists and motorised vehicles, and injuries to cyclists).

4.27 There is a current debate in Australia regarding the desirability of footpath cycling, due to the process of developing uniform traffic lawCthe Australian Road Rules. Most of the debate over footpath cycling relates to bicycle-pedestrian interactions on suburban streets, and it is generally accepted that footpath cycling should not be permitted in commercial areas (i.e., around businesses such as shops and offices).

4.28 Katz (1994) examined the evidence for and against footpath cycling. He found that mixing of cyclists and pedestrians through footpath cycling is less than ideal for both cyclists and pedestrians, but that footpath cycling can provide significant improvements in the safety of riders relative to riding on busy roads. While the implications for general pedestrian safety and amenity do not appear to be major, it is known that pedestrians perceive a threat from cyclists in such situations (see, e.g., Oulton & Hynes, 1994). The experience of bicycle courier activities in the Sydney central business district, where bicycle couriers routinely ride through pedestrian areas such as Martin Place and the Pitt Street mall, would seem to indicate that pedestrian-cyclist interactions are not always benign, despite the published research to date (see Katz, 1994).

4.28 STAYSAFE has concluded that the general provision of footpath cycling in the Sydney central business district would be undesirable, due to the high volume of pedestrian traffic and the concentration of commercial activities in this area.

Bicycle lanes

4.29 STAYSAFE believes that a more acceptable alternative to a general provision allowing footpath cycling is to define and clearly mark out bicycle lanes through the major pedestrian

precincts in the Sydney central business district. The general acceptability of this alternative is indicated in survey studies, where respondents show similar levels of support to questions such as >Cyclists should not ride at all through pedestrian areas= and >There should be a designated route for cyclists through pedestrian areas= (Katz, 1994; see also Trevelyan & Morgan, 1993).

4.30 STAYSAFE understands that negotiations involving Sydney City Council, the Roads and Traffic Authority, the Darling Harbour Authority, regarding the provision of a marked bicycle lane through the pedestrian precinct across the Pyrmont Bridge have been concluded successfully.

4.31 STAYSAFE has found that it would be appropriate for the Sydney City Council to examine the feasibility of developing a system of marked bicycle lanes throughout the Sydney central business district.

4.32 The effect of developing a system of marked bicycle lanes in pedestrian precincts within the Sydney central business district would be to provide a solution to a seemingly intractable series of problems posed by bicycle couriers choosing to dash through areas, such as Martin Place and the Pitt Street pedestrian mall, rather than follow the legal street routes.

4.33 Representatives of the NRMA Ltd. drew STAYSAFE's attention to some of the route choices faced by bicycle couriers seeking to deliver packages from one location in the Sydney central business district to another location as quickly as possible. As an example, the NRMA witnesses pointed out that a bicycle courier seeking to get from a location in Pitt Street immediately south of the pedestrian mall to NRMA House in Clarence Street would have to travel almost 1.2 kilometres on the city streets to get to the NRMA. Or, returning from Clarence Street to the same Pitt Street location the bicycle courier would have to cycle 1.3 kilometres to get back according to the shortest legal street route. A more direct route, involving riding in violation of pedestrian precincts and in violation of one-way streets, is only 0.7 kilometres in distance in either direction of travel. Similarly, the delivery of a package from Parliament House in Macquarie Street to NRMA House in Clarence Street, or return, would involve similar distances to be travelled if the bicycle courier followed the prescribed street routes, but less than half the distance if the bicycle courier rode through the pedestrian-only precincts of Martin Place.

4.34 Mr Suivi, representing NRMA Ltd., suggested:

Mr SUIVI: "The sort of issue I thought would be worth considering is the accessibility for bike riders, such as contraflow bicycle lanes; shared facilities on pedestrian malls; defining a route for bike riders so that they do not have to travel the long route, so that they are less inclined to break the law.

There is a contraflow lane in Wattle Street, Ultimo, that you might want to have a look at. There you have the one-way street and a contraflow [bicycle] lane going the other way." (Minutes of Evidence, 23 October 1995, p.30)

4.35 Of course, STAYSAFE points out that bicycle couriers could choose to dismount their bicycles and walk them through pedestrian areas where riding a bicycle is illegal, allowing the bicycle couriers to move in a direct route from their pick up and drop off points, but without breaking the law. For example, it is not unknown to see bicycle couriers walking their bicycles through Martin Place (although it is, unfortunately, quite rare).

RECOMMENDATION 13: The Sydney City Council, in consultation with the Roads and Traffic Authority and other relevant organisations, examine the feasibility of developing a system of marked bicycle lanes, including contraflow bicycle lanes, in pedestrian malls and on selected roadways throughout the Sydney central business district.

Other bicycle-friendly infrastructure

4.36 A need identified by STAYSAFE is for the provision of facilities for bicycle parking throughout the Sydney central business district. Under the codes of conduct that have been developed for bicycle couriers there has been mention made of the necessity to secure bicycles outside buildings in a manner which does not impede pedestrians or other road traffic. However, there are no specific facilities for this purpose in the Sydney central business district.

4.37 The priority for bicycle couriers is to provide bicycle parking facilities that are secure, easy to use, and accessible. A difficulty in the question of accessibility is that bicycle couriers can pick or deliver from most buildings within the Sydney central business district, hence there is a need for facilities which are able to be widely distributed throughout the area. Devices such as wall loops or locking rings could provide a solution that is cost effective and has little impeding effect on passers-by.

4.38 The Accessible City strategy developed by Sydney City Council (1995) identified a need to provide facilities to accommodate bicycle parking and storage at the railway stations throughout the Sydney central business district. STAYSAFE understands that the Accessible City strategy seeks to address the provision of long-stay bicycle parking facilities required for commuter cyclists and for parking durations that are quite long, extending from an hour to the length of the working day. It would be expected that facilities reflecting this demand would incorporate additional security and protection of the weather. Devices for long-stay bicycle parking include bicycle lockers, or supervised bicycle parking in locations such as car-parking facilities or at railway stations.

4.39 The Bicycle Association's (1996) guidelines for the planning and design of bicycle-friendly infrastructure has provided general comment on the issue of short-stay and long-stay bicycle parking facilities:

"... carefully planned provision of secure parking facilities can do much to encourage new users, and make existing cyclists more confident about leaving their their bicycles. In addition, safe and convenient cycle parking at cyclists' destinations helps to make

cycle routes and other facilities well used.

Well planned cycle parking facilities can confer security. They can give a much neater and less cluttered appearance than the use of railings, lamp posts and drain pipes. They also reduce the risk of obstruction to pedestrians, especially visually impaired people. The costs of installation and maintenance of cycle parking facilities are appreciably less than those for cars, and ten bicycles can be parked on the space needed for the parking of one car." (p.66)

4.40 STAYSAFE recommends that Sydney City Council assesses the specific needs of the bicycle courier industry during the development and implementation of a system of bicycle parking and storage facilities in the Sydney central business district.

RECOMMENDATION 14: The Sydney City Council, in consultation with the Roads and Traffic Authority and other relevant organisations, ensure that the needs of bicycle courier industry are taken into account when developing a system of bicycle parking and storage facilities throughout the Sydney central business district.

4.41 Another traffic management issue identified by STAYSAFE concerned the provision of bicycle priority at traffic signals, much the same as the bus priority signals introduced in recent years. Bicycle priority signals enable cyclists to enter (and leave) an intersection prior to motorised vehicles, thus minimising frustrations and delays due to the slow acceleration of bicycles in comparisons with cars, trucks and buses.

RECOMMENDATION 15: The Sydney City Council, in consultation with the Roads and Traffic Authority and other relevant organisations, examine the feasibility of bicycle priority signals at selected signalised intersections within the Sydney central business district.

4.42 An issue that STAYSAFE identified during the inquiry was riders' concerns with the availability of personal facilities within the Sydney central business district. It was suggested by the bicycle couriers that there was a need for improved toilets, as well as showers, to be available in the downtown area. While such a suggestion may have applicability for the general public, and even for recreational and commuter cycling, it is hard to see why what are really employer-employee matters relating to the provision of adequate working conditions should be the responsibility of representative bodies such as Sydney City Council. In STAYSAFE's view, such concerns for improved working conditions would be better pursued through industrial relations processes involving riders, courier companies, and representative organisations such as unions and the Courier and Taxi Truck Association.

4.43 The preceding paragraphs have addressed some of the traffic management strategies to improve cycling and pedestrian safety and access, such as designated cycling paths, contraflow bicycle lanes along one-way streets, and bicycle priority at traffic signals. There are many other

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specific strategies that could be investigated, including wider footpaths and shared pedestrian-bicycle zones. These additional approaches are well known, and will not be discussed further in this report.

Wider transport and safety issues within the downtown Sydney area

4.44 However, there are wider, more general transport and safety issues that need to be addressed, including the examination of issues such as the re-routing of existing roadways and the development of new road links. The concept of a major review of the traffic network within the Sydney central business district was supported by witnesses in STAYSAFE's hearing. For example, Mr M. Thompson, representing Bicycle New South Wales, indicated to STAYSAFE that the Bicycle Institute had, in late 1994, proposed that:

Mr M. THOMPSON: AThere [were] also issues regarding the redesign of the city's traffic flow. One of the reasons we believe that cyclists break the laws is that basically the city is not designed for them to easily traverse the city in any way, shape or form. That would include developing a cycleway or cycle lane system within the city. Also, installing specially marked bike lanes in pedestrian malls would ease the conflict between pedestrians and cyclists, in order that pedestrians can be made aware that they can expect cyclists in this area. Overseas studies have concluded that pedestrians and cyclists can be safely mixed, provided that each knows of the other's likely presence.@ (Minutes of Evidence, 23 October 1995, p.24)

4.45 STAYSAFE notes the active role played by Bicycle New South Wales in promoting bicycle issues, but does comment that representation of bicycle courier interests could be improved. In materials reviewed by STAYSAFE there has been a tendency for the general cycling community to seek to distance themselves from commercial cyclists, perhaps due to the negative stereotypes of cyclists that the bicycle couriers have come to represent in media reports and commentaries. It remains however, that issues surrounding bicycle courier activities in the Sydney central business district have served to elucidate and highlight the general needs of the cycling community, and the problems faced and caused by the simultaneous use of bicycles and motorised vehicles on roadways, and bicycles and pedestrians on the roadsides.

Consultative and advisory bodies

4.46 STAYSAFE accepts that there is a need for the development of planning and advisory bodies that can address the wider issues of the needs of road safety and particularly bicycle safety within the downtown Sydney area. There are a number of consultative and advisory bodies. These include the Roads and Traffic Authority's Pedestrian Safety Taskforce, Cyclist Safety Taskforce and the Bicycle Advisory Council, Sydney City Council's City Safety Taskforce, and advocacy groups such as Bicycle New South Wales and the newly-formed

Pedestrian Council of Australia.

Pedestrian Safety Taskforce, Cyclist Safety Taskforce and the Bicycle Advisory Committee

4.47 In 1996, the Roads and Traffic Authority established a Pedestrian Safety Task Force and a Cyclist Safety Task Force. These consultative bodies replace a combined Pedestrian and Cyclists Safety Taskforce established in December 1993. The general form and purpose of the Roads and Traffic Authority's task force structures has been described in STAYSAFE 19 (1992). The task forces are charged with developing an operational program of countermeasures on an annual basis. The task forces are composed of representatives from the relevant organisations involved in specific forms of road trauma, together with officers from a number of areas within the Roads and Traffic Authority. Typical responsibilities of the task forces include:

- co-ordination of activities aimed at reducing road trauma and risk factors, identifying areas where action is needed
- planning of further activities to reduce inappropriate or illegal road use behaviour
- ensuring that appropriate people and groups are informed and consulted about countermeasure activities
- development of evaluation strategies for the assessment of countermeasures
- act as a reference group for advertising and public relations campaigns that target road trauma

4.48 The Pedestrian Safety Task Force and the Cyclist Safety Task Force are developing a pedestrian action plan and program and a bicycle action plan and program, respectively. These action plans and programs will deal with general questions of pedestrian and bicycle use in the community, rather than specific targeting of pedestrian and bicycle issues in a localised area such as the Sydney central business district.

4.49 The Bicycle Advisory Committee is a successor to the State Bicycle Committee, established in 1988-89 to deal with the introduction of helmet wearing laws for bicyclists. It is a Ministerial advisory Committee established to look at a range of high-level policy issues. No such similar Ministerial advisory committee exists for pedestrian safety issues. The Bicycle Advisory Committee has been active in seeking redress for the issues surrounding the activities of bicycle couriers in the Sydney central business district.

City Safety Taskforce

4.50 The formation of a City Safety Taskforce in 1995 has provided a consultative and advisory apparatus for integrating diverse safety concerns in the Sydney central business district, covering not only the activities of bicycle couriers associated with commercial operations in the city, but also addressing safety issues associated with tourism, entertainment, and the city residents.

4.51 A Minute issued by the Lord Mayor, Cr Frank Sartor, regarding the City Safety Taskforce states:

"The Sydney City Council is concerned with safety on a number of levels. Safety is not

just about addressing the problem of crimes against persons. It is also about pedestrian safety and the safety of property.

Safety is also about perceptions. If people perceive that they are not safe in the City (even in the face of contrary evidence) then they will steer away from its many attractions and the City will suffer. A safe City is a city in which people can walk the streets at night without concern. A safe City is a city in which bicycle couriers obey traffic rules and do not injure pedestrians. A safe City is a city in which property is not stolen or damaged.

I believe that it is important to address both the substance and the perception of safety issues in the City. Council's Living City program, with its emphasis on bringing people and life back into the City on a 24-hour basis, will of itself assist in making the City a safe place in which to live, work and visit.

There is a need to co-ordinate the efforts of the various public authorities which have a role to play in tackling the issue of safety in the City. In order to advance this, I have secured the agreement of the NSW Government and the NSW Police to the establishment of the City Safety Taskforce." (Minute by the Lord Mayor, 17 August 1995, p.1)

4.52 The City Safety Taskforce is a body oriented towards policy development, and has an advisory and advocacy role. The functions of the Taskforce include:

- establishment of an accurate picture of crime by location within the City;
- identification of potential problem areas within the City, with particular regard to the lighting of streets and public spaces;
- provision of advice on policing and pro-active solutions to identified problems;
- consideration of pedestrian safety issues, with particular regard to problems caused by bicycle couriers;
- provision of advice and assistance with community projects aimed at improving public safety;
- advocacy regarding safety and safety-related issues.

Bicycle New South Wales and the Pedestrian Council of Australia

4.53 Bicycle New South Wales and the Pedestrian Council of Australia are the major advocacy organisations representing the general interests of cyclists and pedestrians in New South Wales. Bicycle New South Wales is well known for its vigorous advocacy of cycling issues, and representatives of Bicycle New South Wales gave detailed evidence to STAYS SAFE during this inquiry.

4.54 The Pedestrian Council of Australia is a new advocacy organisation formed to represent pedestrian interests. The primary objectives of the Pedestrian Council of Australia are to seek continual improvement in pedestrian safety, amenity and access throughout the community, and to encourage and promote walking as a legitimate transport mode and a health social activity.

4.55 STAYSAFE has noted with concern that witnesses identified inappropriate and unsafe pedestrian behaviour as being contributory to pedestrian-bicycle courier incidents in the Sydney central business district. STAYSAFE has noted the pedestrian safety campaigns run by Sydney City Council and the Roads and Traffic Authority to alert pedestrians to dangers associated with jay-walking and other unsafe road behaviours, and enforcement campaigns targeting pedestrian offences run by the New South Wales Police Service with the aid of local council ordinance officers of Sydney City Council. It seems that the relative silence with which bicycles move on the roadway, together with the common behaviour of cyclists in keeping in kerbside lanes, poses particular risks to pedestrians who fail to keep a proper lookout for approaching traffic when seeking to cross the roadway.

4.56 This view was supported in discussions with bicycle couriers. The riders indicated to STAYSAFE that there was a need to focus on improving jaywalking countermeasures, perhaps including fencing on streets where people commonly jaywalk rather than crossing at the designated pedestrian facilities. The jaywalker is seen as a particular nasty problem for a rider.

4.57 While all these advisory, consultative and advocacy bodies have a role to play in dealing with the safety of road users in the Sydney central business district, STAYSAFE believes that the City Safety Taskforce, with its strong emphasis on improving the safety and amenity of movement within the Sydney central business district, is particularly well placed to develop further programs to ensure safe movement of cyclists and pedestrians, as well as motorised traffic, on downtown Sydney streets.

Concluding comments

4.58 STAYSAFE has reviewed traffic management strategies to improve cycling and pedestrian safety and access, such as wider footpaths, designated cycling paths, and shared pedestrian zones. STAYSAFE has also identified traffic management strategies to improve the interaction between cyclists and motorised traffic on downtown Sydney's streets. STAYSAFE believes that there are steps that can be taken in the short-term to improve bicycle movement throughout the Sydney central business district, but that there are more general transport and safety issues that need to be addressed, including the examination of issues such as the re-routing of existing roadways and the development of new road links.

4.59 In any consideration of the safe, orderly and efficient movement of bicycles within the downtown Sydney area, consideration must be made of the needs and problems of commercial cyclists, as well as the needs and problems associated with recreational and commuter cycling.

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CONCLUDING REMARKS

5.1 The activities of bicycle couriers clearly represent a safety issue of importance to pedestrians and other road users in the Sydney central business district. The development of a new industry associated with the rapid movement of documents and other materials reflects the demands of business and highlights the need for clear strategic thinking about the management of road and pedestrian traffic in downtown city areas. While it has been a difficult exercise indeed to gain insight into the nature of bicycle courier activities and the safety problems associated with this new industry, it is clear that the actions of the bicycle couriers of the Sydney central business district pose particular challenges to the agencies and organisations charged with the responsibility of managing traffic movements involving competing demands for priority and of developing and enforcing traffic law and regulation.

5.2 STAYSAFE has made recommendations that, on the evidence available to its Members, should be well received by those associated with the bicycle courier industry, the administration of transport matters in New South Wales, and with the safe and efficient management of the Sydney central business district. It is STAYSAFE's view that the major growth of the bicycle courier industry occurred in the early 1990's as a result of the industrial environment in which the courier industry is regulated. With expected changes in industrial regulation relating to bicycle courier activities, it seems that the excesses that have caused such public and official concern may be reduced. The institution of the other processes as recommended by STAYSAFE will complement and extend the changes expected to arise from the industrial relations environment. Some recommendations provide for immediate action to limit the risks associated with bicycle courier activities. Other recommendations are derived from a longer term view, and provide for the availability of timely and appropriate information about bicycle courier activities as the downtown Sydney area develops and grows into a truly accessible city.

5.3 Finally, STAYSAFE wishes to comment on its actions in conducting and reporting on specific road safety issues. STAYSAFE, through its formal inquiry process, examines significant issues associated with road safety. STAYSAFE has a role to monitor, investigate, and report on the road safety situation in all its aspects, and this means that, from time to time, STAYSAFE deals with limited issues inquiries, or inquiries into issues of public concern which are difficult to solve and which may be viewed as bothersome to policy makers and bureaucrats. Commonly, these issues do not affect the overall State-wide road safety situation, but they do have an immediate and significant impact on particular sections of the New South Wales

community. Further, closer examination of these types of issues can often be instructive for more general policies and programs. Several STAYSAFE reports have examined these types of limited issues (e.g., STAYSAFE 4, 1985, on the question of a quota system for issuing traffic infringement notices by police; STAYSAFE 22, 1992, on the safety of towing caravans and trailers by light motor vehicles; STAYSAFE 24, 1992, on the responsibilities of those persons in control of livestock while on public roads; and STAYSAFE 29, 1995, on the effective enforcement of traffic law relating to pedestrians conducting sales or charity collections on roads)

5.4 This report on bicycle courier activities in the Sydney central business district demonstrates these features of a limited issues inquiry. STAYSAFE was conscious of the need to look for general principles underlying consideration of illegal riding by bicycle couriers, and many of the recommendations made will, if adopted, have a much wider effect on bicycle activities than just on commercial cycling activities by bicycle couriers in the Sydney central business district.

APPENDIX A: BICYCLE COURIERS AND INDUSTRIAL REGULATION

*The courier industry and the "motor vehicle loophole" - The bicycle "loophole"
- A "vehicle" loophole? - What is a vehicle? - Concluding comments*

A.1 Under industrial relations legislation, the New South Wales Industrial Relations Commission has the power to conciliate and arbitrate on contracts of carriage, including contracts between transport companies and carriers, and agreements made between associations of contracted carriers and individual employing contractors or contractor associations.

A.2 In recent years there have been significant industrial concerns attached to the courier industry in general, and there continue to be concerns with bicycle courier activities in particular. The rates of pay for courier work and the working conditions of bicycle couriers have been the subject of debate in Parliament, the media, and the community. Repeated attempts have been made to provide an adequate framework for the safe and efficient performance of bicycle courier work, but without success.

A.3 To date, the bicycle courier industry is without any specific industrial regulation. Neither the Industrial Relations Act 1991, nor the Industrial Relations (Public Vehicles and Carriers) Act 1993 (which amended the legislation affecting carriage of goods on roads), includes provisions relating to goods carried by bicycle couriers. The position adopted by successive coalition Governments prior to 1995 was that if any abuse or exploitation of bicycle couriers was occurring, then suitable coverage already existed. For example, if a bicycle courier was a party to a subcontractual arrangement with a courier company, and had a grievance, then recourse to the New South Wales Industrial Commission was available under the Industrial Relations Act 1991 s.275, and if a bicycle courier was an employee of a courier company, then coverage was available under the Transport Industry (Interim) State Award.

A.4 In practice, however, these provisions did not seem to be effective. STAYSAFE is aware that there are significant industrial regulation concerns attached to the courier industry in general, and bicycle courier activities in particular. Constable (1995) commented:

"The Industrial Relations Act of 1991 does not guarantee minimum award wage conditions for the riders, therefore the riders are open to abuse from the industry. Most courier companies employ riders as independent contractors and therefore they are not protected by the Transport Industry State Award. This award guarantees the riders a minimum weekly gross wage of around \$384.00 but as most couriers are independent contractors the courier companies do not have to adhere to the regulations. With the current economic and employment conditions, I pity the riders for there are many wishing to fill their shoes if they disagree with the current conditions, in particular

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foreigners on a working holiday." (p.10).

A.5 This view was confirmed in evidence from representatives of the Courier and Taxi Truck Association. The Courier and Taxi Truck Association represents the courier and taxi truck industry right around New South Wales, and is a registered industrial organisation pursuant to the Industrial Relations Act 1991.

A.6 Ms Robertson, representing the Courier and Taxi Truck Association, stated that, to date, the bicycle courier industry has been without any industrial regulation. Neither the Industrial Relations Act 1991, nor the Industrial Relations (Public Vehicles and Carriers) Act 1993 which amended the legislation affecting carriage of goods on roads, included provisions relating to goods carried by bicycle couriers.

A.7 The Courier and Taxi Truck Association represents the courier and taxi truck industry throughout New South Wales. It is a registered industrial organisation, registered pursuant to the Industrial Relations Act 1991. The Association has been involved in past Government inquiries into bicycle courier safety, and it has played an important role in addressing the problems arising from bicycle courier activities and in seeking resolution of those problems.

A.8 STAYSAFE questioned witnesses representing the Courier and Taxi Truck Association regarding the need for industrial regulation of the bicycle courier industry:

Mr SMITH (STAYSAFE): "It appears to me that you have a foot in either camp. You have subcontractors, whom I suppose you would like in some circumstances to be subcontractors in respect of some of your commission payments and so on, but it is very hard if you want them to be subcontractors and want to bring them into an industrial situation. You are trying to work two systems."

Ms ROBERTSON: "The Industrial Relations Act covers the courier industry in every facet other than that of bicycles by virtually setting rates and conditions."

MR GIBSON (CHAIRMAN): "I understand that you have been having discussions with the Department of Industrial Relations concerning bicycle courier activities. What was the nature and purpose of those discussions?"

Ms ROBERTSON: "In 1993, when our Association and the Transport Workers Union approached the then Government, we sought to have the Act amended so that we could make determinations which were like awards for the subcontractors. Both Houses of Parliament approved every part of the amendment other than that regarding bicycle couriers. So, at the moment, the Industrial Relations department is drafting or has drafted a new Industrial Relations Bill. We believe bicycles will be included in that draft for the future. However, we are still looking at some time down the track before there is community consultation and then the bill is presented to both Houses of

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Parliament." (Minutes of Evidence, 23 October 1995, pp.55-56)

A.9 Later comments by witnesses representing the Courier and Taxi Truck Association are also instructive:

Ms ROBERTSON: "It is only elements of the industry that cause problems right through the industry, not just in the bicycle courier area, but as you get into sedans, vans and larger vehicles. You will find that most of the industry wants to come forward and participate in a form of regulation that we can live with. More importantly, we want to use the road and the utility safely."

The Hon. A. B. MANSON (STAYSAFE): "Ms Robertson, is it fair to say that if all the industry was on a level playing field, it would be easier to do that?"

Ms ROBERTSON: "Certainly."

The Hon. A. B. MANSON (STAYSAFE): "But this can only come about by some form of regulation?"

Ms ROBERTSON: "Unfortunately, yes. We have tried on two occasions, back in 1990 and last year the voluntary program. Last year's experience is probably freshest in our mind. What Mr Pearce said previously is absolutely correct. The companies that were doing the wrong thing, pushing the bicycle couriers, not paying them good rates at all. For example, a job from Central Station to Circular Quay to be completed in 12 minutes for 90¢, that type of pushing of a person were allowed to keep doing that, and the companies that were saying they were part of the accreditation trial were the ones receiving the infringements."

The Hon. A. B. MANSON (STAYSAFE): "And going broke?"

Ms ROBERTSON: "Yes."

The Hon. A. B. MANSON (STAYSAFE): "So the few fly-by-nighters are the fly in the ointment?"

Ms ROBERTSON: "Yes." (Minutes of Evidence, 23 October 1995, p.58)

A.10 Bicycle New South Wales also drew STAYSAFE's attention to this issue. Bicycle New South Wales is the peak body representing the interests of cyclists in New South Wales. Mr M. Thompson, representing Bicycle New South Wales, replied to a question from STAYSAFE:

Mr G. E. THOMPSON (STAYSAFE): "What is known by the Bicycle Institute

about the nature of the bicycle courier industry?"

Mr M. THOMPSON: "From informal talks with couriers around town and observing courier behaviour, while we do not have knowledge of numbers and things like that, we are of the opinion that there are industrial issues that relate to the behaviour of cycle couriers. We do know it is not in the best interests of cycle couriers to put themselves in danger, because basically they do not get paid. If they put themselves in danger, and injure themselves, it is all the worse for them.

I have heard from various cycle couriers that generally they try to do the right thing within the pressures under which the industry operates, but they recognise that there are two or three, or a handful of operators who flout the law, no matter what, and they would do so whether they are couriers or just ordinary cyclists.

I understand that because of pricing there is pressure of competition within the courier industry, on time of delivery; consequently, there is a pressure to get both pickup and delivery within a certain time. It is interesting that in the last week I received this brochure in our office, offering for \$3.50 a 45-minute guaranteed delivery by bicycle courier. I think that is some sort of indication of the competitive pressures within the industry to actually deliver fast service." (Minutes of Evidence, 23 October 1995, pp.24-25)

A.11 Clearly, parties with an intimate involvement in the bicycle courier industry and in cycling in general believe that effective industrial regulation of the bicycle courier industry is necessary to allow for some improvement in the safety and efficiency of the industry.

A.12 In fact, the issues raised before STAYSAFE are reminiscent of past debates over other sections of the general courier industry.

The courier industry and the Amotor vehicle loophole@

A.13 Under the original Industrial Relations Act 1991, contracts of carriage only fell under the purview of the Industrial Relations Commission if the load was transported by a motor lorry, as defined under the Traffic Act 1909. This definition obviously excluded other motor vehicles, such as cars and motor cycles, and also other vehicles, such bicycles. The late Andrew Ziolkowski MP, Member for Parramatta, drew the attention of the Greiner Coalition Government to the deficiency of this "motor vehicle loophole", and the Government agreed to review the situation if problems were experienced by the courier industry.

A.14 The "motor vehicle loophole" did, in fact, turn out to be the cause of significant problems within the courier industry, affecting the relationships between principal contractors in the courier industry and individual couriers working for these principal contractors. In particular, the New South Wales Industrial Commission was prevented by the "motor vehicle loophole" from

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making a contract of determination that extended to all carriers operating within sections of the industry, and led to significant economic disparities between courier drivers operating a motor lorry and drivers operating other motor vehicles or bicycles in the performance of courier work. The ability of contracted courier drivers and bicycle couriers to have access to agreed minimum rates of pay and agreed working hours and conditions was severely limited, and the relevant union in the area of transport courier work, the Transport Workers Union, was prohibited from making representations for determinations of rates of pay, hours or work and other working conditions.

A.15 The Industrial Relations (Public Vehicles and Carriers) Act 1993 was introduced to extend contracts of carriage to include all motor vehicles, but it continued to exclude bicycles.

A.16 The then Labor Opposition felt that this was inappropriate in that it did not go far enough in recognising the nature of the way the courier industry was evolving. For example, Mr Peter Nagle MP, Member for Auburn, supported the extension of contracts of carriage from "motor lorry" to "motor vehicle", but argued for the inclusion of bicycles. He said:

MR NAGLE (Auburn): "Specifically, the bill relates to what has become known as the motor vehicle loophole, and in particular [its] impacts on the courier and taxi [truck] industries...."

I advise the House that the legislation caused enormous problems within the industry. It did away with the level playing field that had been known for many years and it took away the concept of fair and honest competition between various courier companies.... Because of the current motor lorry loophole, the [Industrial Relations] Commission was prevented from making a determination that extended to all carriers of given classes. This has discriminated against the carrier transporting a load by vehicle other than a motor lorry. Bicycle couriers have been left out of the legislation, and this must be rectified by an amendment." (Votes and Proceedings, 9 November 1993, p.5007)

A.17 Mr Nagle MP continued:

MR NAGLE (Auburn): ".... In regard to the bicycle aspect of the amendment, the situation is that in the Sydney area couriers travel by bicycle to deliver their items. An article by Alicia Larriera in the Sydney Morning Herald exemplified this by reference to Mr Metcalf, a young man of 20 who lives at Chatswood as has been a subcontract courier with a courier company for two years. He had this to say:

I am the longest lasting pushie at the company,' he said. 'I take home between \$450 and \$600 a week in the hand.'

The article continued:

As a subcontractor he does not receive benefits such as sick pay, holiday pay or superannuation

If this legislation is to ensure a level playing field, the Government should ensure that Mr Metcalf retains his net salary of between \$450 and \$600 and take cognisance of the

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fact that the article's heading dealt with the word suicide. It implies that those who ride a bicycle around the Sydney metropolitan business district take their life in their hands. If that is going to be the case, these young cyclists must be protected from exploitation. Another loophole should not be left, necessitating the legislation being dealt with by the House at a future date." (Votes and Proceedings, 9 November 1993, p.5007)

A.18 The Opposition amendment was not accepted. Speaking in the Legislative Assembly debate over the Bill, the Minister for Industrial Relations and Employment, the Hon. Kerry Chikarovski MP, stated:

MRS CHIKAROVSKI (Lane Cove): "The closure of the motor lorry loophole through the legislative amendment is of primary importance to the courier industry and one which will have negligible effect on the remainder of the transport industry. The Government's bill provides for references to motor lorry to be replaced with references to motor vehicle, as defined in the Motor Traffic Act 1909. The definition will cover motor cars, motor cycles and other vehicles propelled by volatile spirit, steam, gas, oil or electricity, and trailers. By referring to the Motor Traffic Act the definition will exclude vehicles such as water taxis, trains and vehicles which are used on private land or premises.

As mentioned by the honourable member for Auburn, bicycles have not been included. I note that he intends to move an amendment in Committee, but there are good reasons for not including bicycles or other forms of non-motorised transport, which I will address in Committee." (Votes and Proceedings, 9 November 1993, pp.5007-5008)

A.19 In later debate in Committee over the Bill, the Minister stated:

Mrs CHIKAROVSKI (Lane Cove): "This amendment is somewhat misguided. Bicycle couriers already have coverage under the transport industry interim State award. That is a more than adequate mechanism to ensure that such persons receive fair remuneration, about which the honourable member for Auburn was obviously concerned when he made his remarks earlier. The system of contract determinations under chapter 6 has been designed to ensure that contract carriers get a fair return for their asset. The level of remuneration assumes that such assets involve a major purchase and significant ongoing maintenance costs; that is, a truck, a car or a utility which they have to maintain. I am at a loss to understand what sort of ongoing, substantial maintenance costs we are talking about in relation to a bicycle. It would be clearly inappropriate for us to include bicycles in this bill. We would end up with a situation where we might have to extend this provision further. For example, should we be talking about people on rollerblades?@

Mr J. H. MURRAY (Drummoyne): @But they are not in business.@

Mrs CHIKAROVSKI (Lane Cove): ACouriers could be delivering on rollerblades. We need to be honest in what we are doing here. We are talking about people who

have to bear some cost in maintaining their vehicles. I am also concerned that the contract determination requires that a courier must be a holder of a current licence and must comply with all Acts, ordinances, regulations and by laws relating to the registration, third party insurance and general operations of the vehicle in New South Wales. Clearly bicycle couriers are unable to comply with this requirement and it is inappropriate for them to do so. The whole thrust of this amendment is entirely inappropriate. We are talking about motorised vehicles and we should restrict this bill to ensure that coverage is provided. As the Government has already indicated, it is sponsoring this bill to cover those who we are concerned about. At this stage it is not appropriate to cover bicycle riders under this bill.@ (Votes and Proceedings, 9 November 1993, p.5008)

A.20 The amendment to extend the coverage of the contract of carriage provisions of the Bill to include bicycles was affirmed, but the Government later amended the amended sections and replaced them with the original provisions of the Bill when the Bill was debated in the Legislative Council. When the Bill returned to the Legislative Assembly, the Opposition permitted the Bill to pass in order to achieve other objectives provided in the legislation, but noted that upon achieving Government it would act to ensure that contract of carriage provisions under industrial relations legislation would include bicycle transport as well as motor vehicle transport.

A.21 The result of the passage of the Industrial Relations (Public Vehicles and Carriers) Act 1993 was to extend contracts of carriage to include all motor vehicles, but to exclude carriage of goods by bicycles. In short, the "motor vehicle loophole" created in the Industrial Relations Act 1991 was closed, but a "bicycle loophole" was created by the Industrial Relations (Public Vehicles and Carriers) Act 1993.

The Abicycle loophole@

A.22 The Industrial Relations Bill 1996 makes provision to enable contracts of carriage to have application for motor vehicles and for bicycles. The Bill provides for:

As.309 Contract of carriageCmeaning

- (1) For the purposes of this Chapter, a contract of carriage is a contract (whether written or oral or partly written and partly oral) for the transportation of goods by means of a motor vehicle or bicycle in the course of a business or transporting goods of that kind by motor vehicle or bicycle ...@

A.23 The effect of this provision is to include bicycle couriers and courier work involving carriage by bicycle within the ambit of industrial law within New South Wales in such a manner as to allow clear and easy access to the Industrial Commission for determinations.

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A.24 STAYSAFE has noted an argument that the purpose of the Chapter 6 provisions regarding contracts of carriage in the Industrial Relations Act 1991 was to provide protection for individuals and companies engaged in courier work to be reasonably protected with regard to any substantive capital investment that might be required. Regardless of the worthy intent of the provision in protecting persons entering into courier work and needing to make substantial investment in vehicles and other capital resources, the history of the serial creation of loopholes which allowed courier companies to circumvent the protective purpose of the legislation is clear evidence that the full impact of the contract of carriage provisions was not contemplated in the drafting stages.

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A Avehicle@ loophole?

A.25 During the debate over the Industrial Relations (Public Vehicles and Carriers) Bill 1993, the then Minister for Industrial Relations and Employment, the Hon. Kerry Chikarovski MP, remarked that she was reluctant to extend the provision of the Bill to cover bicycle as well as motor vehicles. As noted earlier, she said:

Mrs Chikarovski (Lane Cove): AIt would be clearly inappropriate for us to include bicycles in this bill. We would end up with a situation where we might have to extend this provision further. For example, should we be talking about people on rollerblades?@ (Votes and Proceedings, 9 November 1993, p.5008)

A.26 STAYSAFE is concerned that the economic forces that have created the bicycle courier industry as a financial viable aspect of the general courier industry might seek to exploit further loopholes in industrial relations legislation covering contracts of carriage. One class of vehicle that remains after loopholes such as the Amotor vehicle loophole@ and the Abicycle loophole@ are removed is the toy vehicle class (including rollerblades, skate boards, etc.). Toy vehicles may be utilised by courier companies who wish to adjust the pricing for clients for courier work, and the payments for individual couriers for courier work, in order to attract maximum market share and to earn maximum profit.

A.27 This continuing situation of loopholes being found and exploited within in industrial relations legislation designed to provide for contracts of carriage allowing Aa fair day=s pay for a fair day=s work@ for people working in the courier and transport industry is clearly not appropriate.

A.28 STAYSAFE suggests that an alternative to the loopholes such as the Amotor vehicle loophole@ and the Abicycle loophole@ would be for new legislation to refer to >vehicles= in the provisions for contracts of carriage.

What is a vehicle?

A.29 STAYSAFE has noted the comments of Stringer J in Bransgrove -v- Archer [1926] NZLR 254 regarding the legal definition of a vehicle. As cited in Britts (1995, p.18 [2.320]):
per Stringer J: "The etymology of the word 'vehicle' shows that it includes only contrivances, with wheels or runners, in or on which passengers or goods are or may be transported." (at 255).

If such a definition is accepted, then provided that a person acting as a courier is using any form of contrivance to transport goods as part of courier work, it seems that the relevant provisions of industrial relations legislation referring to the term >vehicle= would therefore have effect.

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A.30 STAYSAFE recognises that the use of the term >vehicle= is, potentially, of great benefit to industrial relations legislation applicable to courier activities, in that 'vehicle' is a word of very wide meaning. The definition of vehicle can mean a conveyance that is designed to be propelled or drawn by any means, including bicycles and toy vehicles. STAYSAFE also notes passages in the dissenting judgement of the Chief Justice and Toohey J in Mills -v- Meeting (1990) 91 ALR 16, where their Honours said:

"If the language of a statute is ambiguous or uncertain, a court will apply its ordinary and grammatical meaning unless to do so will give the statute an operation which obviously was not intended." (at 21)

Again, this would indicate that if a courier is using any form of contrivance to transport goods as part of courier work, it would seem that the relevant provisions of industrial relations legislation referring to the term >vehicle= would have effect.

A.31 Other legal authorities with regard to the question of what constitutes a vehicle appear to be: Fawcett -v- BHP By-Products Pty Limited (1960) 104 CLR 80; Walsh -v- Taylor (1940) 57 NSW WN 148; and Ahern -v- Cullis [1914] VLR 66. In Fawcett -v- BHP By-Products Pty Limited the comments of Windeyer J have particular application: "... a vehicle, in the sense the word has in relation to road traffic, properly means a carriage for the conveyance of passengers or goods or of some particular thing. Chaff-cutters, tar-boilers, concrete-mixers, mobile cranes and the like may, as with the mechanical loader here, be called motor vehicles when they are mounted on wheels in such a way that, to use the expression in the insurance policy here, they are comprised in a vehicle. Strictly it is perhaps only so much of the total equipment as consists the carriage by which the particular apparatus is conveyed that is the vehicle. But it is not inappropriate, when such a thing is considered as a unit in road traffic, to describe its totality as a vehicle." (at 91). Windeyer J continued "... But the movement by road of any self-propelled mobile plant is, in my view, clearly a use of it. Its mobility under its own power is one of its characteristics. Taking advantage of that characteristic is one of the ways of using it." (at 92). (See also remarks per Menzies J (approved Dixon CJ, McTiernan, and Kitto JJ) at 85-87). In Walsh -v- Taylor it was stated per Bavin J "I think, looking at the meaning given by the Oxford Dictionary to the word 'vehicle' means of conveyance provided by wheels, or runners, and used for the carriage of persons or things' that the word 'vehicle' may be properly regarded as including a bicycle under that regulation." (at 148). In Ahern -v- Cullis the statement was made per Madden CJ "A vehicle is a contrivance or instrument used for the carriage of something, a conveyance capable of being used as a means of transportation. It has the secondary meaning of the medium with which some other substance is mixed in order that it may be applied more easilyCe.g., alcohol may be the vehicle for carrying a drug to be taken as a medicine. But whether in its original or derived sense it comes from the Latin *veho*, which means to carry or drag; and in any of these senses that which carries persons or goods is a vehicle." (at 68).

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Concluding comments

A.32 It would be appropriate for industrial relations legislation in New South Wales to make provision for contracts of carriage to have application for motor vehicles, bicycles, and any other form of vehicle which might be adopted or adapted for use in courier work.

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SUBMISSIONS RECEIVED RELATING TO BICYCLE COURIER ACTIVITIES

The following list of submissions refer to those received under the terms of reference for the inquiry into pedestrian safety which mention bicycle courier activities.

PED 17	Mr J.A. Roberts
PED 142	New South Wales Police Service
PED 291	Mr A. Hogan
PED 294	Mr M. Preebles JP
PED 297	The Right Honourable Frank Sartor, The Lord Mayor of Sydney
PED 298	Mr P. Hope
PED 301	Mr H Aram
PED 305	Mrs P. Hall
PED 306	Mr G.V. Bellamy
PED 309	Mr K. Moss MP, Parliamentary Secretary for Transport, on behalf of Mr L. Loker
PED 319	Mr D. Alexander

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SUBMISSIONS RECEIVED

LIST OF WITNESSES

17 July 1995

HAROLD CHARLES WOLFE SCRUBY, Company Director

23 October 1995

TERENCE EARLE LESTER, Inspector of Police and Acting Commander, Traffic Services Branch, employed by the New South Wales Police Service

DANIEL JOSEPH McCONVILLE, Traffic Operations Co-ordinator, Sydney Police District, employed by the New South Wales Police Service

RAYMOND CONSTABLE, Senior Constable of Police, City of Sydney Traffic Unit, employed by the New South Wales Police Service

STEPHEN TERRENCE MUSCAT, Senior Constable of Police, employed by the New South Wales Police Service

JOHN MICHAEL McINERNEY, Assistant General Manager (Planning and Building), employed by Sydney City Council

PETER LESTER ADAMS, Manager (Transport and Access), employed by Sydney City Council

LEONARD PAUL THOMAS WOODMAN, Road Safety Officer, employed by Sydney City Council

MARK GREGORY THOMPSON, Campaign Manager, employed by Bicycle New South Wales

ANDREW RICHARD MACKY, Manager, Traffic Engineering, employed by NRMA Limited

THOMAS DUFF HIGGINS, Behavioural Scientist, Road Safety, employed by NRMA

Limited

DARREN SUIVI, Project Officer, Engineering and Environment Department, employed by NRMA Limited

HELEN MARGARET FITZGERALD, Manager (Bus Policy), Vehicle Transport Division, employed by the Department of Transport

JOHN THOMAS NEWMAN, Manager (Planning Policy), Planning and Projects Division, employed by the Department of Transport

MARK ALEXANDER VAUGHAN DOWSE, Policy Officer (Bus Policy), Vehicle Transport Division, employed by the Department of Transport

STEPHEN HENRY SOELISTIO, Manager (Bicycle Section), Road Safety and Traffic Management Directorate, employed by the Roads and Traffic Authority

ANTHONY JOHN PEARCE, General Manager, employed by Crisis Couriers

BARRY ROLAND BOND, Operations Manager, employed by Mayne Nickless Courier Systems

JENNIFER MARIE KINSELLA, Manager, employed by Red Tag Couriers

KATHLEEN PATRICIA ROBERTSON, Chief Executive Officer, employed by the Courier and Taxi Truck Association

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WITNESSES