

## Summary report of NSW enforcement agency activities in the retail food service sector for the period 1 July 2019 to 30 June 2020

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### Background and the Food Regulation Partnership

NSW continues to enjoy a strong food surveillance partnership model, the Food Regulation Partnership (FRP), aimed at ensuring that consumers have safe food and the NSW food industry continues to thrive.

The NSW Food Authority (Food Authority) appoints all NSW councils and Office of Environment and Heritage (OEH, in respect of Kosciusko National Park) as enforcement agencies under the *Food Act 2003* (NSW).

They work together to ensure NSW retail food service businesses comply with food safety standards and regulations.

NSW has 132 areas regulated by 131 enforcement agencies; 128 councils (in respect of their own local government area), OEH (in respect of Kosciusko National Park), Lord Howe Island Board (in respect of Lord Howe Island) and Food Authority (in respect of Sydney Harbour Federation Trust and the unincorporated far west areas).

Enforcement agencies are responsible for routine food safety inspections and enforcement of the retail food service sector in NSW. There are over 40,000 high and medium risk fixed retail food businesses that required regular inspection in the July 2019 to June 2020 reporting period, and almost 12,000 temporary and mobile food businesses.

The NSW retail food sector is one of the biggest contributors to the NSW food industry and the state's economy. It is an innovative and evolving sector and includes changes in the way food is sold, e.g. farmers markets, online and increasingly in the sharing economy.

Enforcement agencies are required to report annually to the Food Authority on their activities and this report summarises the data submitted by these agencies.

### Support for retail food businesses

The Food Premises Assessment Report (FPAR) is a standardised inspection checklist which enables officers to generate a business inspection outcome score. It allows businesses to self-assess, and officers to be consistent when conducting their food safety inspections. The Food Authority distributes the FPAR to all enforcement agencies.

The voluntary *Scores on Doors* program allows food retail businesses to publicise their inspection results, determined by the business inspection outcome score generated by an officer at an unannounced inspection using the FPAR checklist. The inspection results are

displayed as five stars for 'excellent', four stars for 'very good', three stars for 'good'. If the results equate to less the certificates are not displayed. The display of scores at food outlets provides consumers with information about the food business's food safety practices at the time of the inspection and also encourages high standards.

The reported participation rate of enforcement agencies in the *Scores on Doors* food safety ratings program has slightly increased from 45% last year to 47%, which captures 63% NSW retail food businesses in the program as at July 2020.

NSW enforcement agencies continue to provide a range of additional support services to retail businesses including:

- 96% provided technical advice to food businesses
- 96% provided food safety information to food businesses
- 40% organised food handler training for food businesses

During the period the Food Regulation Partnership hosted only one Food Service Information Session with retail and food service businesses. This event was held in partnership with Blacktown City Council.

There were 33 local food retail businesses in attendance where they had the opportunity for face to face engagement with local council, the Food Authority and other retailers, and learn about food safety and the resources available to them.

Attendees heard presentations on a wide range of food safety topics, including mandatory food labelling and health claims, food allergens, foodborne illness, councils' food safety initiatives, display of nutritional information, updates on the Food Safety Supervisor and Scores on Doors programs.

The feedback from food businesses and the hosting local council was positive.

Due to the movement and gathering restrictions imposed by the COVID-19 pandemic two proposed sessions were postponed during 2020. The Food Authority will invite expressions of interest from NSW local councils to host 2021 sessions.

### **Support for enforcement agency officers**

One way the Food Authority supports enforcement agencies is by ensuring authorised officers have access to the very latest information and guidance they need to conduct their duties. The FRP Portal is the major source of information for this geographically dispersed inspectorate.

Along with valuable resources such as the revised FRP Protocols and Advisory Guidelines and Communiques, all the training and professional development materials delivered to

authorised officers are available on the FRP Portal. EHOs can access the material at a time that is convenient to them and their agencies.

The Food Authority continues its commitment to provide contemporary and pragmatic training, information and networking opportunities for the 483 enforcement agencies' EHOs.

Training is delivered to help maintain EHOs' skills and knowledge, promote consistency in inspection protocols and enforcement, and identify emerging risks.

The Food Authority conducts three rounds of meetings at each of the 16 regions across NSW each year. Each has two components; a meeting and a professional development session. Each meeting provides the opportunity for the Food Authority and enforcement agencies to engage on topical food safety issues and developments. Enforcement agencies also have opportunity to problem-solve with their colleagues from different local government areas and seek to develop regionally consistent approaches to local issues.

The training sessions delivered to EHOs in the 2019-20 period were:

- Potentially hazardous foods (PHF) and time control assessments

Acting on trend analysis and feedback, The Food Authority developed a program for authorised officers to identify PHF in the field, assess if the foods needed to be stored under temperature control and take appropriate enforcement action if non-compliances were discovered.

The training contributed towards both the NSW Government's and the national foodborne illness reduction strategies.

- Outcomes of the *Campylobacter* retail study (from 2018-19) and Emerging Issues

This session completed our work on the *Campylobacter reduction strategy in the retail sector* by providing all the results to EHOs. The program of work was to learn more about *Campylobacter* in retail premises and involved participating local councils targeting relevant food business to identify high risk foods, poor food handling practices and take appropriate enforcement action when breaches were identified. 22 local councils participated, 281 food samples were tested, 593 environmental swabs were taken and 169 premises were surveyed. *Campylobacter* was present in <1% of food samples. Checks were also made for the presence of *E.coli* (found in 4% of samples) and *Salmonella* (none detected). The Food Authority will look to develop future work in this area into 2021.

The second element of the session was an opportunity for EHOs to discuss any emerging trends they have experienced in the field and look for ways to build on existing understanding, experience and approaches to solve any difficulties. Some issues raised have been addressed by discussion among the groups but other trends have been put forward for further consideration. An example of one trend for the Food Authority and enforcement agencies to explore into 2020-21 is how best to engage with delivery-only food businesses.

The planned third session for the period was '*Allergens: what to look for during routine inspections*'. This session was postponed due to the COVID-19 pandemic and will be delivered in the 2020-21 period.

### Compliance of retail food businesses

There were a total of 45,987 inspections and re-inspections conducted across the in the retail food services sector, including fixed, temporary and mobile food premises. This value is down from 60,161 in 2018-19, which represents a drop of 24%.

A total of 77% of the high and medium risk food premises (31,039 of the 40,159) were inspected. This value is less than the 93% (from 2017-18 and 2018-19) and is a consequence of the impact of COVID-19 and other events including bushfires, floods and drought.

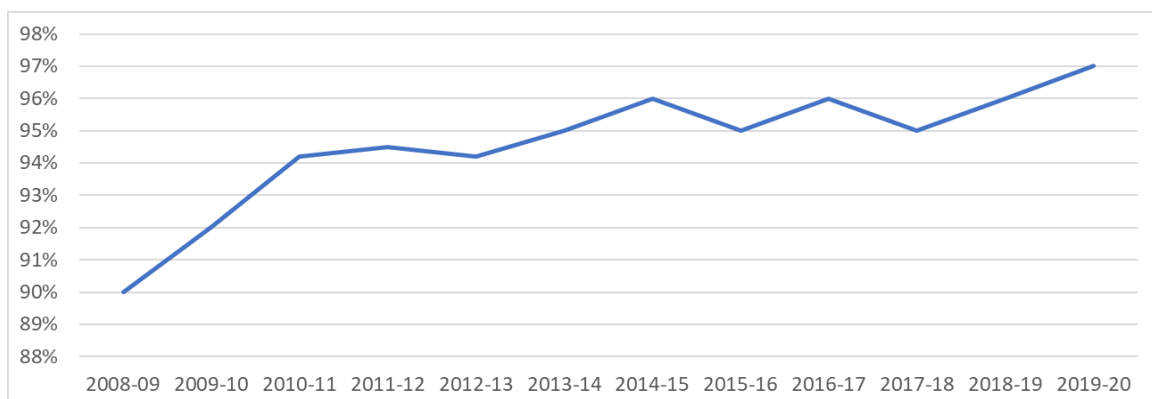
The number of authorised officers remains the same from last period at 483.

#### Food business compliance

Compliance with food safety requirements across the retail food sector has improved since the commencement of the FRP in 2008 and remains fairly steady. In this period the sector recorded a compliance rate of 97% which is an increase from the rate of 96% found during 2018-19, as shown **Figure 1**.

The number of businesses requiring additional re-inspections and intervention for non-compliance was calculated at 3% (1,057 of the 31,039 businesses) compared with 4% last period (1,592 of the 36,715 businesses).

**Figure 1: Overall compliance rate of the retail food services sector 2008-2020**



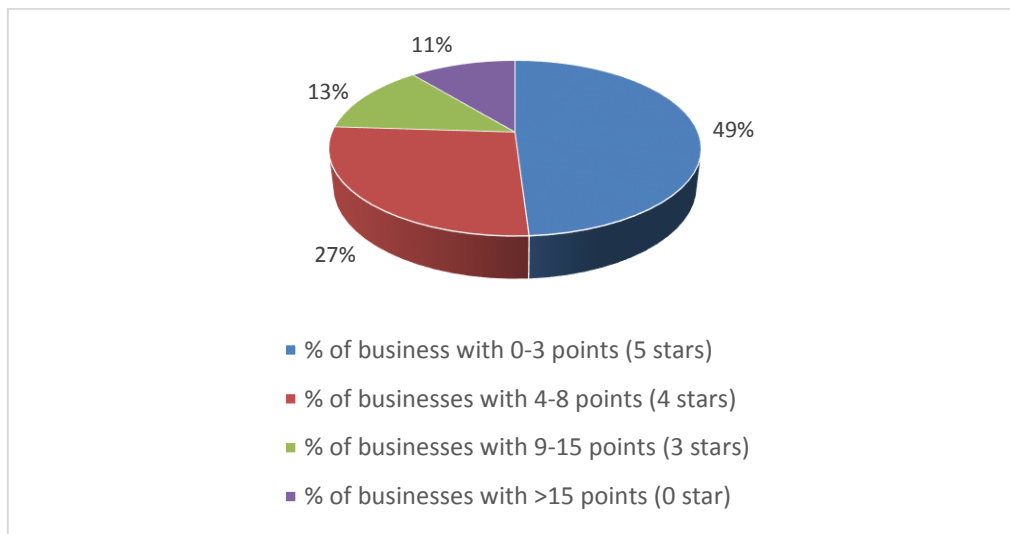
#### Food business inspection outcomes

Food businesses in NSW continue to have high food safety standards and 89% of businesses achieved an inspection outcome of 15 demerit points or less, which equates to a

Score on Doors star rating of at least three or more stars. This is an increase of 1% on 2018-19.

Enforcement agencies provided business inspection outcomes for some inspections (58% of all high and medium risk fixed, temporary and mobile food premises) and the results are shown in **Figure 2**.

**Figure 2: Business inspection outcome scores reported for 2019-20**



The distribution of scores remains fairly consistent with previous periods although there are two notable trends over recent years, which are shown in **Table 1**.

**Table 1: trend of inspection outcomes**

<b>INSPECTION OUTCOMES</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>
<b>0-3 POINTS (5 STARS)</b>	41%	43%	46%	49%
<b>&gt;15 POINTS (NO STARS)</b>	15%	15%	12%	11%

The proportion of business scoring 0-3 points (5 stars equivalent) has risen from 41% in 2016-17 to 49% during this reporting period. The proportion of businesses scoring >15 points (no stars) has dropped from 15% in 2016-17 to 11% this period. Both these trends indicate retail food businesses are achieving stronger inspection results which will enhance overall food safety in NSW.

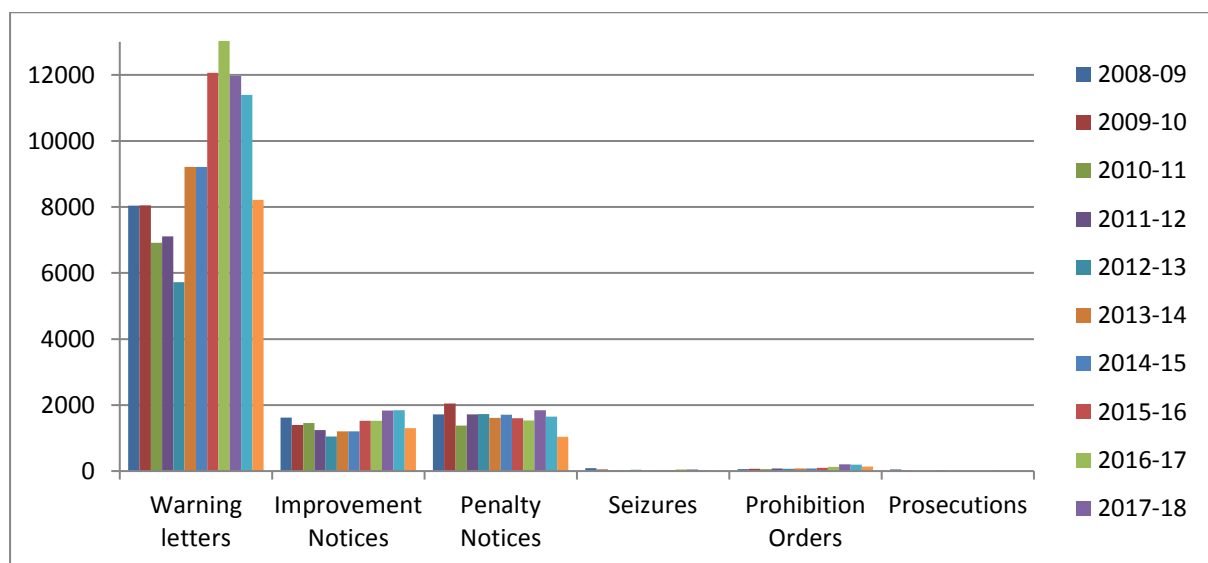
Another positive trend is the number of fixed premises requiring re-inspection. The value reported in 2017-18 was 23%, falling to 20% (2018-19) and for 2019-20 it was 16%. This further indicates stronger food safety performance by the sector.

Enforcement action

To ensure food safety standards are being met authorised officers may use a range of enforcement tools depending on the nature and severity of the food safety risks. An escalatory approach is encouraged with warnings issued as a first step to encourage improvement in safe food handling processes. For more severe breaches improvement notices and penalty notices may be issued, as well as seizure of product/equipment, prohibition orders and then prosecution.

The enforcement tools used and the number of each issued each period is shown in **Figure 3**. This data also confirms that enforcement agencies implement the graduated enforcement approach recommended by the Food Authority.

**Figure 3: Types of enforcement action in the retail sector for 2008-2020**



Except for prosecutions, which have risen from 8 in 2018-19 to 10 (increase of 25%), the use of each statutory enforcement tools has decreased.

The number of warning letters issued by enforcement agencies dropped 28% (from 11,394 to 8,212), the number of improvement notices fell 30% (from 1,466 to 1,297), prohibition orders served fell 29% (from 193 to 137), penalty notices 37% (from 1,654 to 1,034), the number of seizures fell 62% (from 29 to 11). The figures reveal the impact of the COVID-19 Public Health Orders had on the retail and food service sector during 2019-20.

The most common food safety breaches under the Food Act 2003 for which penalty notices were issued during the period were: unclean food premises (17%), improper food storage (14%), poor handwashing facilities (13%), pest control (11%) and unclean fixtures and fittings and equipment (10%)

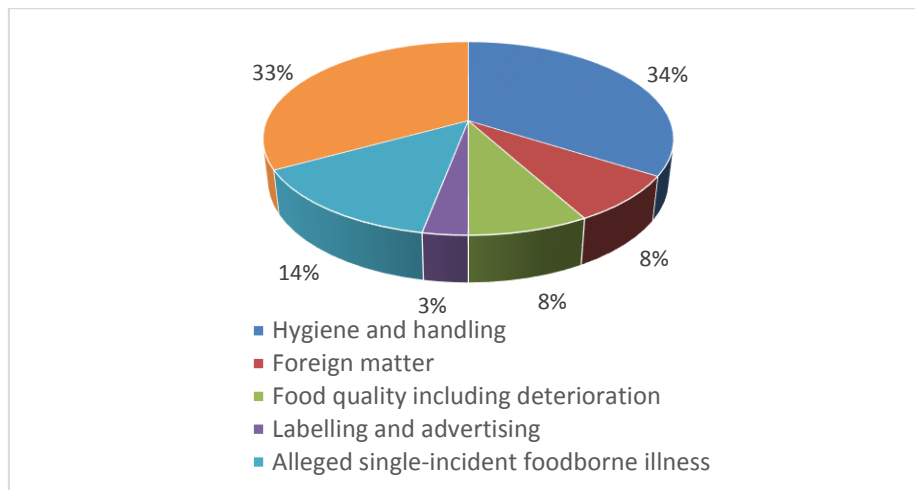
Food businesses who have been issued with penalty notices or prosecuted for food safety breaches are displayed on the *Name and Shame* register of offences on the Food Authority’s website.

Food complaints

Enforcement agencies are responsible for investigating food related complaints. The total number of food complaints for the 2019-20 period increased slightly from 5,339 in 2018-19 to 5,505. The distribution of complaint types remains relatively unchanged from the previous year and is shown in **Figure 4**.

The most common complaint type investigated related to hygiene and handling.

**Figure 4: Complaint types investigated 2019-20**



**Foodborne illness reduction**

All enforcement agencies continued to strive to meet the NSW target of a 30% reduction in salmonellosis, campylobacteriosis, listeriosis and fatal anaphylaxis cases caused by allergen contamination across the food chain by 2021 (NSW Government Food Safety Strategy 2015-2021<sup>1</sup>). The Food Authority continues to provide latest advice, best practice guidance and additional support to enforcement agency officers to assist them with this goal.

<sup>1</sup> [http://www.foodauthority.nsw.gov.au/Documents/corporate/Food\\_Safety\\_Strategy.pdf](http://www.foodauthority.nsw.gov.au/Documents/corporate/Food_Safety_Strategy.pdf)

The NSW *Salmonella* reduction strategy, which focuses on the safe preparation of raw egg products, has successfully contributed to a reduction in the number of *Salmonella*-related outbreaks in restaurants and cafes in NSW.

The NSW *Campylobacter* retail survey also seeks to contribute to an overall reduction in foodborne illness notifications. The recommendations from the *Campylobacter* retail survey are being implemented during 2020-21 to continue with this aim.

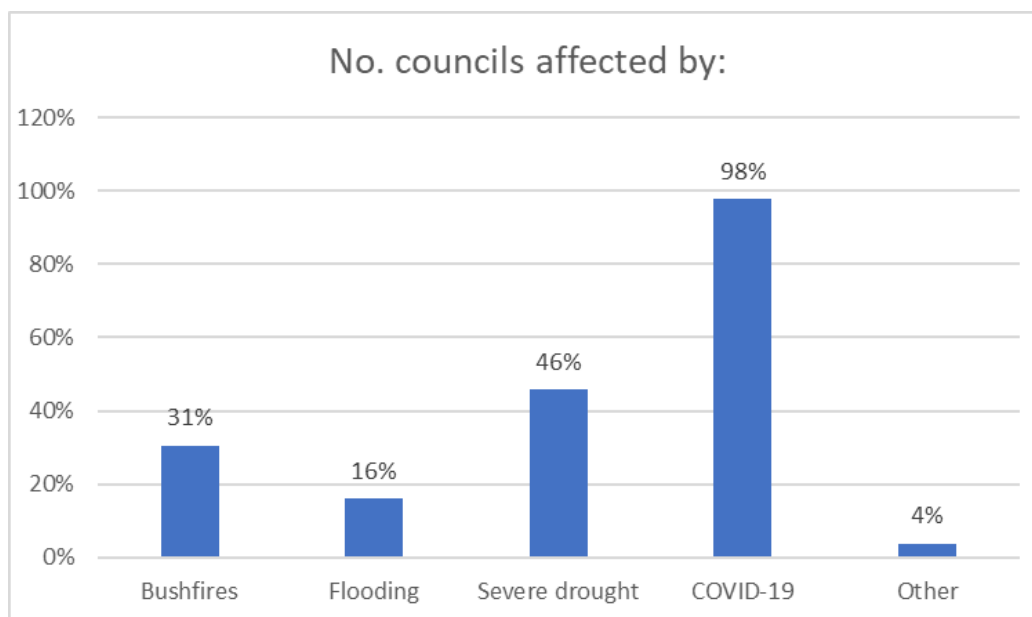
**Impact of COVID-19 and other events on food surveillance activities**

Food businesses and enforcement agencies have been significantly impacted during 2019-20. Towards the end of 2019 and early 2020 many communities experienced a combination of drought, floods and bushfires.

The retail and food service sector was particularly affected with a succession of COVID-19 Public Health Orders placing restrictions on those businesses and consequently this limited enforcement agencies ability to implement their routine food surveillance activities.

**Figure 5** shows 98% of enforcement agencies were affected by COVID-19, 46% by severe drought and 31% by bushfire activity in their community. Flooding affected 16%.

**Figure 5: Enforcement agencies affected by events**

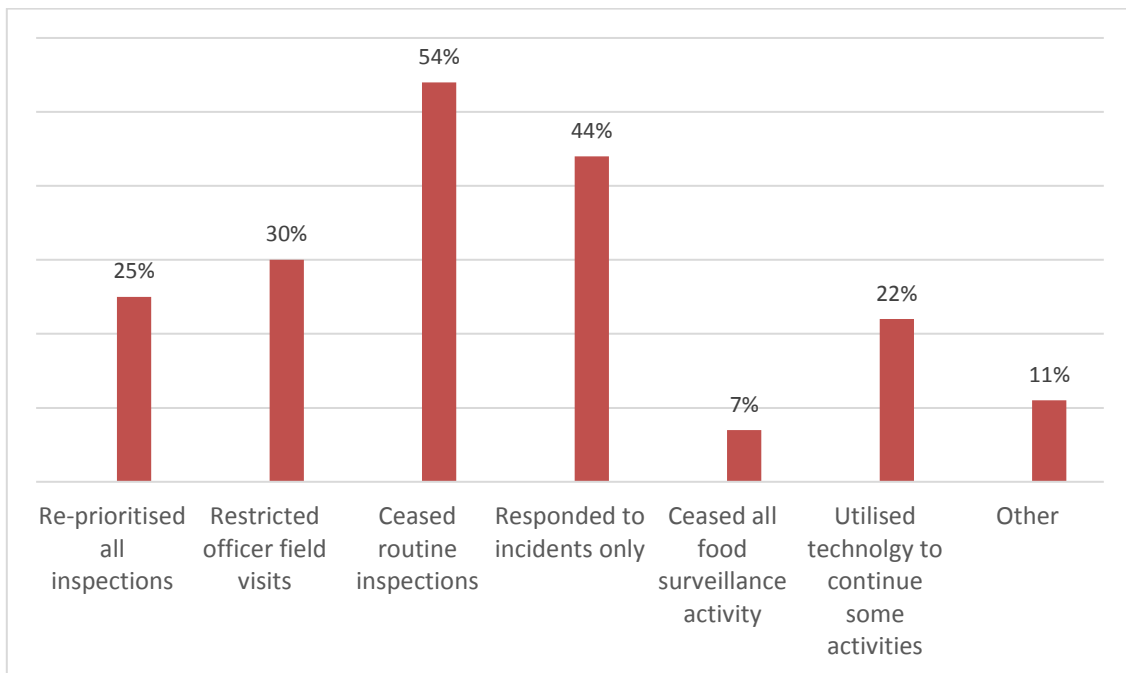


**Figure 6** reveals how enforcement agencies adapted their food surveillance activity as a result of these impacts to service delivery. These values indicate a high level of responsiveness by enforcement agencies to events. For example, 54% ceased their routine inspection program but 25% re-prioritised all inspections. 30% restricted officer field visits but 22% utilised technology in an attempt to proceed with some activities.



This responsiveness was dictated by a number of reasons: restrictions on staff movements, environmental conditions, re-deployment of food surveillance resources and implementing the duty of care to the community.

**Figure 6: Enforcement agencies adapted their activities as a consequence of an event**



Despite the impact to enforcement agencies programs, the food surveillance data for 2019-20 reveals strong performance nonetheless. Despite many enforcement agencies ceasing or re-prioritising their routine food inspections around March 2020, 77% of all high and medium risk food premises have been inspected. The overall compliance rate has increased from the previous year.

The figures demonstrate that despite these significant challenges enforcement agencies are broadly implementing a sustained risk-based food surveillance program throughout the year.

### Food Regulation Partnership Forum

The NSW Food Regulation Forum (the Forum) is a group of representatives from government and industry who provide strategic focus and advice on local government matters. The Forum met three times during the 2019-20 period.

The Forum is chaired independently by Paul Braybrooks OAM, and organisations represented on the Forum are NSW Food Authority, Local Government NSW, Development and Environmental Professionals' Association, Environmental Health Australia, Local Government Professionals Australia, and NSW Small Business Commissioner.



Members include:

- Chair: Cr Paul Braybrooks OAM
- NSW Food Authority – Dr Lisa Szabo and Peter Day
- Robyn Hobbs OAM NSW Small Business Commissioner (Independent)
- Julie Kisa (representing the Development and Environmental Professionals' Association)
- Fiona Stalgis (representing the Development and Environmental Professionals' Association)
- Gina McConkey (representing Local Government Professionals Australia)
- Paul Harmon (representing Local Government NSW)
- Damian Thomas (representing Local Government NSW)
- Ruth Fagan (representing Local Government NSW)
- Lisa Hughes (representing Environmental Health Australia)
- Sarah Flowers (representing Environmental Health Australia)