

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the Closure of I Cook Foods Pty Limited

Melbourne—Thursday, 2 September 2021

MEMBERS

Ms Fiona Patten—Chair

Dr Tien Kieu—Deputy Chair

Ms Jane Garrett

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Mr Stuart Grimley

Mr David Limbrick

Mr Edward O'Donohue

Mr Tim Quilty

Dr Samantha Ratnam

Ms Harriet Shing

Mr Lee Tarlamis

Ms Sheena Watt

WITNESSES (*via videoconference*)

Mrs Jo Woodstock, and

Ms Fiona Wharry.

The CHAIR: Good afternoon, everyone. I declare open the Legislative Council Legal and Social Issues Committee's public hearing into the closure of I Cook Foods.

May I first begin by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the many lands that we are meeting on today, and pay my respect to elders past and present and particularly to any First Nations people who are joining us today or who are watching these proceedings. In fact I would like to welcome everyone who is joining us via the internet to watch these proceedings.

My name is Fiona Patten. I am the Chair of this committee. I am joined today by Dr Tien Kieu, the Deputy Chair; Mr Craig Ondarchie; Ms Kaushaliya Vaghela; Ms Georgie Crozier; Ms Sheena Watt; Mr David Limbrick; Dr Matthew Bach; and Ms Wendy Lovell.

We are very happy that Mrs Woodstock and Ms Wharry could join us. They are Mrs Painter's daughters.

Just to let both of you know that all evidence taken today is protected by parliamentary privilege, and this is provided under our *Constitution Act* but also the standing orders of the Legislative Council. Therefore any information that you provide during this hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

We are recording today, and Hansard will provide you with a transcript of today in the next week. I would encourage you to have a look at that and make sure we have not misunderstood you or misrepresented anything that you say today.

If you would like to make some opening remarks, then we will open it up to the committee for the discussion. Thank you.

Mrs WOODSTOCK: Thank you. Madam Chair, committee members, we would like to thank this inquiry for the opportunity to provide input into this matter, which for us is very important in trying to get some closure and understanding as to the reasons for the death of our mother. Ironically, today would have been her 89th birthday. I am the second daughter of Jean Painter, and I, like my sisters, believe that my mother needs to be represented and have a voice in this very distressing matter, which has been played out in what appears to us as a deliberate media campaign since this all evolved.

There has been no input sought or provided from the members of her family—me, my sisters and our extended family—in any investigation, whether via this inquiry or the Victoria Police. We appreciate that the privacy and respect shown to us in the early stages of the investigations may explain the fact we never have been approached to contribute to any investigations to this point in time. However, given the very public discussion that her death has now taken we believe it is now time to speak up and try and set the record straight.

The evidence that we can provide challenges many of the falsehoods and incorrect information and assertions that have driven much of the discourse in the public arena about who our mother was, what she ate and how she died. To the world we say: draw your own conclusions but do not dismiss us. I ask a question: has anyone thought to ask us what we saw and what we witnessed? We can provide information of several instances that we personally witnessed our mother eating food whilst a patient at the Knox Private Hospital. This includes the consumption of sandwiches on four occasions, one of which I personally witnessed, and that was on 23 January in the emergency department after being discharged to Donvale Rehabilitation Hospital and then sent back for readmission to Knox within 2 hours as she was so unwell and not suitable for admission to the rehabilitation centre. During her readmission to Knox, she ate packaged sandwiches given to her in the emergency department, which she ate and made comments to me about, where she said, 'Oh, these don't taste very nice', as she ate the sandwiches. My sister Fiona also witnessed her eating sandwiches on at least two other occasions, as well as other meals chosen from the standard hospital menu. My eldest son can also recall an occasion of her

eating sandwiches during one of his visits to see her during her time in hospital, which equates to four occasions.

We should start by getting some facts clear. Our mother lived independently in a retirement village in Doncaster. She was not in an aged-care facility and did not require care or assistance. She enjoyed reasonable health, indicating to us some six months prior to her death that she was going to be around for at least another five years as she was feeling pretty good about her health and life in general. She was totally ambulant, albeit a little wobbly on her feet from time to time. She was a very social lady. She was also a fighter, having beaten breast cancer twice some 30 years before her untimely death.

She was admitted to Knox Private Hospital on 13 January to try and work out why she had been having issues with her stomach and losing weight. She was admitted on 13 January and underwent several tests and procedures, and she was diagnosed with gastric ulcers during her early days in hospital. From her admission date up until her deterioration on or about 24 January, she was conscious and ate normal hospital food, including sandwiches on several occasions, which she both enjoyed and on one occasion did not. As previously stated, her consumption of these sandwiches was witnessed by me, my sister Fiona and my eldest son, and at no stage between these dates was she placed on a soft-food diet.

The soft-food diet did not commence until she had been diagnosed with Listeria, which was on or about 25 January. The diet was given because her state of consciousness became a thing of change from that date, and the fear of her choking became the driving force for this diet change. On many occasions she lapsed from being conscious, in our minds, to being unconscious. Her deterioration was one of the most distressing things to witness as it progressed to what we were informed became a meningitis-related condition caused by the Listeria. She was clearly in great pain, and we witnessed her groaning on numerous occasions—what were described to us as primal groans—during her periods of what we considered to be unconsciousness. This was largely how things remained until her death, despite a few short instances of pained consciousness. The treating infectious diseases doctor gave us encouragement during this period that he was confident that she would recover. Sadly, however, her health deterioration continued as a roller-coaster ride for us, and it was something that no person would ever wish to experience or witness. This has been the most distressing and agonising experience we have ever had to endure, and the visions of her suffering will always haunt us.

By way of experience and assistance to me, my husband, who was a respected member of Victoria Police for 43 years prior to his retirement earlier this year, told me that he had dealt with many deaths and people in pain and dying over his time in the force and that this was one of the worst deaths that he had ever seen, given the pain she was going through. It was just horrible. He, like me and my two sisters and my brother-in-law Steve, were present when she died. Although my husband did not personally witness my mother eating sandwiches during her stay, he was certainly aware that she was consuming food at Knox Private Hospital while she was fully conscious and aware of her ability to make decisions and was present with me when she was filling out her food menu requests on several occasions from 13 January until her Listeria diagnosis. He visited her on numerous occasions during this period and would be more than happy to give evidence to this inquiry if warranted.

We have followed most of this discourse in the media and the parliamentary inquiry about this matter, listened to most of the hearings and read all the transcripts from the initial parliamentary inquiry. Given what has now played out in the media since this time, we believe it is now time to speak up and to provide some direct evidence of what we saw, what we experienced. We have no interest in conspiracy theories or political motivations about the decisions taken by any parties in this matter, either real or perceived. We just want the facts presented to the inquiry to be correct and the truth to be put into the public arena. In our view the evidence given by Professor Brett Sutton in the original inquiry was, for us, the most balanced and accurate account and summary, which explains what occurred leading up to and including the death of our mother. We took great comfort from his original appearance because his evidence explained to us what happened, how it happened and, lastly, why it happened. We have great faith in our health system, and we hope that the findings of this inquiry will be based on factual evidence, the rule of law and the principles of justice.

We have provided the committee with three documents that might assist in establishing who our mother was, why she died and—despite the best efforts—how things can go wrong when due care is not taken. These include copies of some promotional features that she appeared in promoting Aveo, where she resided, in the Domaine retirement village; a copy of her death certificate, which clearly lists Listeria as a primary cause of her

death; and a copy of a mass-produced letter from a mail-out from Knox Private Hospital advising former patients of a Listeria outbreak and what you should do if you develop symptoms. Incredibly this letter was personally addressed and posted to our mother some 18 days after her death. We believe that our mother's death and the resultant fast and immediate actions taken by DHHS following her death were appropriate and possibly saved the lives of others. To this we say thank you.

The CHAIR: Thank you so much, Mrs Woodstock and Ms Wharry. And I appreciate you actually supplying us with a photo of your mother; that was really lovely to see.

Mrs WOODSTOCK: Well, just to put a face—

The CHAIR: I know. I so appreciated that. We have only got a very short time together. Could I just confirm that your mother when she first came to the hospital was not on a soft diet, and also, on the 23rd when she was in the emergency room, she was given some packaged sandwiches.

Mrs WOODSTOCK: Yes.

The CHAIR: And those were the ones—she said, 'Oh, I don't like the taste of them'.

Mrs WOODSTOCK: Yes. So both myself and my sister Fiona saw her eat them. And she did not eat the whole packet because she said they did not taste nice. And we have got dates of witnessing her, seeing her, eating sandwiches.

The CHAIR: So it was when she became very ill that they put her onto the soft diet?

Mrs WOODSTOCK: Yes, once her conscious state altered—and that was on or about 25 January. And she was diagnosed with the Listeria then, and there was a fear of choking because of her consciousness.

The CHAIR: Of course. Thank you. I will move to Deputy Chair Tien Kieu.

Dr KIEU: Thank you, Chair. Thank you, Mrs Woodstock and Ms Wharry, for appearing in front of the committee today to share your story to assist us. We do appreciate the distress that you are going through with all the publicity and allegations and the very difficult nature of the inquiry. Once again, you have submitted to the committee the death certificate and also the letter from Healthscope linking Listeria to your mother's death. In your own words you said that the actions that had been taken by the department of health and the local city councils, local governments, were balanced and also appropriate. So in your opinion do you think that a business that provides foods for healthcare settings and the vulnerable cohort should continue to be operating if there is some linkage of Listeria, particularly to a death, and should they be expected to have higher standards?

Mrs WOODSTOCK: I totally agree. They should not be operating if there is a linkage with Listeria and they should be operating at the most—the highest of standards. They are delivering food to vulnerable people, yes, and you would expect they have the highest standards.

Dr KIEU: Thank you. Once again, our condolences to your family, particularly on what would have been her 89th birthday.

Mrs WOODSTOCK: Thank you very much.

The CHAIR: Thank you. Ms Crozier.

Ms CROZIER: Thank you very much, Chair. And thank you, Mrs Woodstock and Ms Wharry, for appearing before the inquiry—again, a difficult day in terms of the anniversary of your mother's birthday, so thank you.

I have got a couple of questions, if I may. On 13 January, it is my understanding from the previous evidence that we received last year, your mother was admitted to Knox hospital with gastritis and colitis. Is that correct?

Mrs WOODSTOCK: Fi?

Ms WHARRY: Yes. Yes, it was.

Ms CROZIER: So that is very severe—gastritis is obviously very painful; colitis is diarrhoea—is that correct?

Ms WHARRY: Correct.

Ms CROZIER: So they are symptoms of food poisoning. Did your mum have blood tests taken at that point, when she was admitted on 13 January?

Ms WHARRY: She had blood tests the following day.

Ms CROZIER: Any blood cultures when she was admitted on 13 January?

Ms WHARRY: Let me refer. She had a CT bowel scan, she was on antibiotics, blood tests—I am not sure whether it was blood cultures.

Ms CROZIER: Okay. And did you request an inquest into your mum's death?

Mrs WOODSTOCK: No, we did not, because we knew that she had died from. As the infectious diseases doctor had stated, it was Listeria, and the treating doctors felt there was no need to have an autopsy or inquest.

Ms CROZIER: Sorry. I just need to ask that again. So on the medical certificate it is my understanding that the primary cause of death was not listeriosis, it was an underlying condition. Could you just repeat what you said about the doctors saying it was not necessary to hold an inquest? Did I hear that correctly?

Mrs WOODSTOCK: It was not necessary to have an autopsy. It was not considered, because we all knew that she had died from Listeria, as stated by the infectious diseases doctor at Knox private, and the treating doctors would sign the death certificates accordingly. She had had the heart condition for well over 15 years, so—

Ms CROZIER: Yes, that is right. That is my understanding too.

The CHAIR: Georgie—

Ms CROZIER: So she had—just one thing; sorry—acute pulmonary oedema, ischaemic heart disease and Listeria, in that order, from the medical certificate. One other thing: did you FOI the Department of Health and Human Services on your mother's death?

Mrs WOODSTOCK: They contacted us.

Ms CROZIER: Why?

Mrs WOODSTOCK: Because there was a media release. And they also contacted us once she was diagnosed with Listeria, because it is a reportable disease, as you would be aware. So then they contacted my sister Fiona, advising us that there would be a media release.

Ms CROZIER: On what date was—

The CHAIR: Georgie, I am sorry. Mr Limbrick.

Mr LIMBRICK: Thank you, Chair, and thank you, Mrs Woodstock and Ms Wharry, for appearing today. I cannot imagine how difficult this whole experience must be for you. Just one question. Listeriosis—my understanding is that it has quite a long incubation time. Were you asked by the department of health for, like, a full food history of what your mother ate?

Ms WHARRY: Yes.

Mr LIMBRICK: And so when did that occur? So they had information on all of the food that she had eaten over a period of how long?

Ms WHARRY: Yes, and it was a period of approximately two weeks prior to her admission.

Mr LIMBRICK: Okay. Thank you.

The CHAIR: Thank you. Ms Vaghela.

Ms WHARRY: Could I just also say—sorry—on admission she was diagnosed with gastroenteritis, just to get that clear.

The CHAIR: Okay. Thank you, Ms Wharry. Ms Vaghela.

Ms VAGHELA: Thanks, Chair. Thanks, Mrs Woodstock and Ms Wharry, for coming today and sharing your story with us. It will certainly shed light and will assist us in this inquiry. I am really sorry to hear about the death of your mother and particularly the circumstances under which it happened. My thoughts are with you and all your family members. The question I have is: is there anything that the committee could have done during the inquiries over the past year and a half to improve the experience your family has had to go through?

Mrs WOODSTOCK: That is a good question. I just think we all feel the way that it has been played out in the media has been extremely distressing. Even yesterday there was a truck going around with ‘Take a selfie with the slug’. You know, we were all lost for words—just could not believe what we were seeing. So yes, it is just the way it has been played out in the media. And maybe we could have been contacted for our information. But now we have been given the opportunity, and we thank the committee for that.

Ms VAGHELA: Just a quick one, Chair. At what point did you guys think, ‘I think we need to go and give information’? What led you to that decision?

Mrs WOODSTOCK: The first parliamentary inquiry we listened to and took in, and as I said, we were really pleased with Professor Sutton’s comments and findings. Then when it was reopened we thought, ‘Now we have to stand up and give our mother a voice, because we don’t want this to happen to anybody else’.

Ms VAGHELA: Thank you. My sympathies are with you on this bittersweet day. Thank you.

Mrs WOODSTOCK: Thank you very much.

The CHAIR: Ms Lovell.

Ms LOVELL: Thank you, Fiona. If I could just extend my condolences to the family. The loss of any parent, a much-loved parent, is a very difficult time for the family. I am going to concede my time to Ms Crozier as she was unable to continue with her line of questioning.

Ms CROZIER: Thank you, Chair, and thank you again for providing this information. It is important that we get to the bottom of this issue. I know it is difficult and distressing, but there is a letter we have received from Healthscope dated 22 February 2019 that was addressed to your mum, sadly. In that letter it says:

Listeria symptoms can appear anywhere between 3 and 70 days post-exposure and can include:

- Fever
- Headache
- Tiredness
- Aches and pain
- Nausea and diarrhea

As Ms Wharry said, your mum was admitted on 13 January with gastroenteritis. Obviously, as we understood in the previous inquiry, some of those symptoms—gastric pain, nausea, vomiting and diarrhoea—are very much part of gastroenteritis. So could there be a situation in your mind that your mum came in unknowingly being unwell and having those symptoms, or had she expressed to you maybe that she had got gastroenteritis by some other means?

Mrs WOODSTOCK: No, and also her GP felt that she was over the worst of it. We, along with her GP, felt, because she was losing weight, she should go to hospital to get her built up again and looked after. You go to hospital to get well, not to get sick.

Ms CROZIER: Sorry to cut across you Mrs Woodstock, but at the time, as you said, she was admitted with gastroenteritis—

Ms WHARRY: With gastric ulcers.

Ms CROZIER: But Ms Wharry, your sister said gastroenteritis, which is diarrhoea, vomiting, nausea, in addition to gastric ulcers. So she would have been very unwell.

Mrs WOODSTOCK: Yes. But as I said, the GP said she was over the worst of it.

Ms WHARRY: The GP had diagnosed her a day prior to admission with gastroenteritis. Then once she was admitted to Knox private, with the scans et cetera she then was diagnosed with gastric ulcers. Three days prior to her admission she had not eaten, and the health department had taken a full listing of previous places where she ate and what she ate and that was investigated.

Ms CROZIER: Have you got a list of—

The CHAIR: I am sorry, Ms Crozier. Ms Watt.

Ms WATT: Thank you, Chair. Thank you, Mrs Woodstock and Ms Wharry, for being with us today on what is a sad day for your family, and can I extend to you my sympathies. I just have a question: as a family, what was your expectation of the food that was supplied to your mum in these health settings?

Ms WHARRY: A balanced diet, certainly with safe products. Yes.

Ms WATT: Do you have any thoughts on the standards that should be kept at the food manufacturing centres where the food is made for clients of hospitals? If there is a higher standard, do you think that there should be a higher standard for the food production, quality and sanitation at these places that make food for vulnerable clients?

Ms WHARRY: Absolutely. I absolutely agree, because in hospitals a lot of people are vulnerable, so the standards need to be high.

Ms WATT: That is really all I had for today. Thank you.

The CHAIR: Thank you. Mr Ondarchie.

Mr ONDARCHIE: Thank you, Mrs Woodstock and Ms Wharry. It is very brave of you today to come in and do this, given how tough it is.

Mrs WOODSTOCK: Thank you.

Mr ONDARCHIE: I do understand. Were Knox hospital supportive of you after your mother's passing?

Ms WHARRY: No.

Mr ONDARCHIE: Okay. I do not know, but do you know, did anybody else catch Listeria at Knox hospital about the same time as your mum?

Mrs WOODSTOCK: We are unaware of it. We do not know.

Mr ONDARCHIE: Okay. Thank you.

The CHAIR: Thank you. Ms Vaghela.

Ms VAGHELA: Thanks, Chair. Either of Mrs Woodstock or Ms Wharry can answer. As far as this inquiry goes, what lessons would you like to be learned from your family's experience?

Ms WHARRY: Jo?

Mrs WOODSTOCK: I would like that businesses that prepare food for anybody—it does not matter if they are vulnerable or not—that it is of the highest quality and standards and all the strict regulations are adhered to

so that no-one gets sick, whether they are selling it to cafes or providing it to hospitals. It must be of the highest standard, because when you eat food you do not expect to get sick.

Ms VAGHELA: I just want to confirm once again: if we had not held the second inquiry, the reopened inquiry, you would never have come forward to provide us with the information that you have provided today, and we would never have known then?

Mrs WOODSTOCK: Well, no. This has given us the voice and Mum the voice, and we thank the committee for that opportunity. That is where we have sat back and watched the media ‘circus show’, I call it, being played out.

Ms VAGHELA: Thanks, Chair.

The CHAIR: Thank you, and that has really hit home—the impact that the media around this has had on your family. Your mother came straight from Doncaster—from her home to the hospital. Do you know if anyone at her home had fallen sick or if there had been any gastro outbreaks or anything like that at Aveo?

Mrs WOODSTOCK: No. It is a retirement village. They live independently in their own—

The CHAIR: Of course. They are cooking their own. They are not eating communally. Yes, of course. Thank you. Ms Watt.

Ms WATT: I just have a question for you both about support from anyone when it comes to preparing for today. Were you offered any support and assistance? I understand this can be very distressing. Are there any lessons that you would like to share for us about support for grieving families as they present evidence to inquiries like this?

Mrs WOODSTOCK: We have been supporting each other. All of our husbands have been fantastic. Also, we all have sought professional help, and that has been a great support for us.

Ms WHARRY: We have not received any support from other sources, to answer part of your question.

Ms WATT: That is certainly something for us to consider. Thank you.

Mrs WOODSTOCK: Yes, but the contact we have had with the inquiry staff has been very good, very supportive. Thank you.

The CHAIR: Great. Thank you. They are a good bunch. Dr Bach.

Dr BACH: Thanks, Chair. And thank you to you both for being with us. My condolences to you as well. I might pick up where Ms Watt left off, also touching on the question that Mr Ondarchie asked, because undoubtedly we in these inquiries, in government departments and in other entities can do far better to support people who find themselves in positions such as yours. You said in response to Mr Ondarchie’s question that you did not receive any support from Knox hospital. Would you mind just explaining in a little bit more detail what that looked like? I think you said you felt unsupported—I certainly do not want to put words in your mouths—by Knox hospital. What did that look like as a learning exercise for us?

Mrs WOODSTOCK: Well, they did not offer any support. She died there; that was the end of story. And then, as I said, 18 days after her death we get a letter from them. So they offered no support at all.

Dr BACH: Okay. Okay. And then just quickly, again linking back I think to the very good question that Ms Watt asked you, you also did not receive any support, any contact, from the department of health or any figures in the government; is that right?

Mrs WOODSTOCK: Yes. They contacted Fiona.

Ms WHARRY: So they contacted me initially for reporting the Listeria and getting the information that they required. And on one other occasion, which was perhaps—whether it was a week to two weeks later, I cannot recall—I actually rang them and asked what was going on, any updates, just asking for some information, and they said that they were unable to provide any information at this stage, and that was it.

Dr BACH: All right. Thank you both for coming very much. It was definitely very useful. Thank you.

Mrs WOODSTOCK: Just one thing which might help maybe in future if people are being mentioned in inquiries, maybe ask the family would they like to participate. Yes, that is just one thing.

Dr BACH: Thank you.

The CHAIR: Dr Kieu.

Dr KIEU: Thank you, Chair. Thank you. I would just like to mention that we did consider the question of inviting you for the first inquiry, but out of respect and official law. So once again I would like to say that. This is difficult, but I would like to recall what the witness Mr Christy last week—that is the Environmental Health Officer—said, in answering my own question and many others, that the only diet was a soft diet for the entire length of the stay in the hospital. So what did you make of that? And that was based, according to Mr Christy's evidence, on the confirmation of the chef or the manager in the kitchen, so what did you make of that?

Mrs WOODSTOCK: That is absolutely incorrect. She was not placed on a soft food diet until about 24 or 25 January, and also they put a sign above her bed saying 'Risk of aspiration'. So I do not know—

Ms WHARRY: That was on 25 January.

Mrs WOODSTOCK: Yes. And I do not know how the kitchen manager at Knox Private Hospital thinks that records are not kept of patients' food orders. I do not know how he could make that assumption or claim.

Dr KIEU: Thank you.

Ms WHARRY: And the dietitians—surely the dietitians would have information as well about her being on a full ward diet.

Mrs WOODSTOCK: And we helped her fill out menus and she filled out menus independently from the full hospital menu, not a soft food diet.

Dr KIEU: Thank you. Thank you so much.

The CHAIR: Mr Limbrick.

Mr LIMBRICK: Thank you, Chair. This letter that you have submitted—the letter from Healthscope, which remarkably was addressed to your mother—is it your understanding that this letter was sent to all of the patients that were in the hospital during that period and they all received this letter?

Mrs WOODSTOCK: Yes, that is what I understand. I presume that it was a mail-out, yes, a general mail-out.

Mr LIMBRICK: Yes. Okay. And the timeliness of this, it seems like a very long time after the fact to get that. Was that sort surprising to you—that it took such a long time before you got this sort of information?

Mrs WOODSTOCK: Absolutely. We could not believe that it was addressed to Mum and, you know, 18 days after she died. We just could not. And this is where if due care is not taken—as I said in the statement, if due care is not taken—mistakes can be made.

Mr LIMBRICK: Yes. Okay. And when you are talking about due care here, you are talking about the hospital itself?

Mrs WOODSTOCK: Well, sending it, yes—just sending out a letter to someone that is deceased. Yes.

Mr LIMBRICK: I understand. Thank you.

The CHAIR: Thank you, both of you, very much for today. I think possibly in retrospect we should have contacted you. I wonder why the department and others had not also been in greater contact with you last year. But thank you so much for today. I hope in some ways that it has helped you, because you have been able to speak really fully and really provide a voice for your mother. So thank you again on behalf of all of us for

appearing today. You will receive a transcript of today's hearing. As I mentioned, please have a look at it and make sure that we have not misrepresented or misheard you in any way. Thanks, everyone.

Mrs WOODSTOCK: Thank you for the opportunity.

Witnesses withdrew.