

PARLIAMENT OF VICTORIA

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Legal and Social Issues Committee



Inquiry into the closure of I Cook Foods Pty Ltd

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Legislative Council Legal and Social Issues Committee

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About the Committee

Functions

The Legislative Council Legal and Social Issues Committee's functions are to inquire into and report on any proposal, matter or thing concerned with community services, education, gaming, health, and law and justice.

As a Standing Committee, it may inquire into, hold public hearings, consider and report on any Bills or draft Bills, annual reports, estimates of expenditure or other documents laid before the Legislative Council in accordance with an Act, provided these are relevant to its functions.

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This report is available on the Committee's website.

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Terms of reference

Inquiry into the closure of I Cook Foods Pty Ltd

Self-referenced by the Committee on 3 June 2020.

That the Legal and Social Issues Standing Committee inquire into, consider and report, by 30 July 2020, on the forced closure in February 2019 of I Cook Foods Pty Ltd, including—

1. actions undertaken by Department of Health and Human Services and the City of Greater Dandenong, its Chief Executive Officer and Council officers, for decisions made which led to the forced closure of I Cook Foods Pty Ltd;
2. whether any breaches of law and regulation by, or shortcomings of, government officials led to the forced closure of I Cook Foods Pty Ltd;
3. whether any conflict of interest arose during the City of Greater Dandenong's investigation, reporting and subsequent closure of I Cook Foods Pty Ltd;
4. the administration and management of Community Chef since January 2015, including the plans for the City of Greater Dandenong to sell its share of Community Chef and the plans for the Victorian Department of Health and Human Services to purchase a greater share of Community Chef; and
5. any other matters relating to the forced closure of I Cook Foods Pty Ltd.

Chair's foreword

My colleagues and I embarked on this Inquiry into the Closure of I Cook Foods Pty Ltd just eight weeks ago. I Cook Foods is a family business, providing pre-packaged meals to hospitals, the aged care sector and 'Meals on Wheels' services. The company was temporarily closed during investigations conducted by the City of Greater Dandenong and the Department of Health and Human Services into the source of a Listeria infection. The investigation of I Cook Foods led to the imposition of a closure order under section 19 of the *Food Act 1984*, which ultimately resulted in the loss of contracts and clients, the retrenchment of employees, and the cessation of operations at the business. I Cook Foods was also charged with breaches of the Food Act, all of which were later dropped by the City of Greater Dandenong.

We undertook this Inquiry to determine whether I Cook Foods was closed on the basis of a sound and proper process and whether it was treated fairly during that process.

During this short inquiry we received many hundreds of pages of evidence. We also heard from a number of stakeholders during public hearings. I thank them all for appearing at hearings and for the evidence they provided.

There was a great deal of media coverage of the closure of I Cook Foods and surrounding events, and the Committee heard a number of allegations and counter allegations regarding the motivations and actions of those involved. These I believe are the subject of ongoing dispute and investigation.

Our focus during this Inquiry was on the adequacy of the processes that led to the closure. In short we found that the Closure Order was validly executed but that the framework in which the decision to impose the Order was made and the processes that led to this decision were inadequate and that I Cook Foods was not dealt with in a fair or consistent way. The City of Greater Dandenong Council failed in many aspects of their role as regulator. In fact the Committee received evidence of inconsistent reporting practices, fluctuation in inspection procedures, inadequate processes, inadequate adherence to the processes in place and poor communication by the City of Greater Dandenong.

The expertise of food regulation rests to a great degree with the Department of Health and Human Services and we came to the view that the Department needs more powers in food safety regulation in Victoria. The *Food Act 1984* is complex and outdated and should be amended to ensure that certain processes are consistently regulated and decrease the likelihood of situations such as this one arising in the future.

Chair's foreword

I thank my colleagues on the Committee for their willingness to conduct this Inquiry in a short timeframe. I also thank the Secretariat, and in particular Lilian Topic, Vivienne Bannan and Anique Owen for their work on this Inquiry in addition to the ongoing inquiry work of the Standing Committees.

I hope that the Committee's report can contribute to improvements in food safety regulation in Victoria.

I commend the report to the House.

A handwritten signature in black ink, appearing to read 'Fiona Patten', with a large, stylized initial 'F'.

Fiona Patten MLC
Chair

Findings and recommendations

3 Systemic challenges

RECOMMENDATION 1: The City of Greater Dandenong implements all recommendations in the audit report, *Independent investigation into Council's regulation of iCook (sic)*, as a matter of priority. 14

FINDING 1: The Closure Order, signed by the Acting Chief Health Officer, issued pursuant to section 19 of the *Food Act 1984* was prepared and served on valid grounds and for a proper purpose. 16

FINDING 2: The City of Greater Dandenong's three to four-yearly portfolio rotation policy for Environmental Health Officers was not followed in relation to I Cook Foods Pty Ltd. 19

FINDING 3: The scheduling and attendance practices of Environmental Health Officers at the City of Greater Dandenong do not reflect best practice in relation to food safety processes. 20

FINDING 4: The City of Greater Dandenong did not adequately fulfil its role as the responsible food safety regulator in respect of its management of I Cook Foods Pty Ltd. 21

FINDING 5: The City of Greater Dandenong did not ensure that long-term food safety issues at I Cook Foods Pty Ltd were properly addressed in line with its food safety management processes and did not adequately communicate these issues to I Cook Foods as they arose. 26

FINDING 6: The abrupt nature of the escalation of known food safety issues at I Cook Foods Pty Ltd is concerning and points to deficiencies in process and access to procedural fairness. 26

FINDING 7: The City of Greater Dandenong had evidence of known non-compliant food safety practices at I Cook Foods Pty Ltd but did not effectively manage the rectification of these issues. 27

FINDING 8: The City of Greater Dandenong did not routinely review or refine its food safety processes to the standard expected of a food safety regulator.	27
RECOMMENDATION 2: That the <i>Food Act 1984</i> be amended to establish a uniform escalation process for local councils to notify repeated non-compliance of businesses to the Department of Health and Human Services.	27
RECOMMENDATION 3: That the Department of Health and Human Services work with local councils to develop a uniform process for early identification of health risks, particularly relating to Listeria.	27
FINDING 9: Robust and uniform communication processes are necessary in the area of food safety given the crucial and sometimes urgent need to protect public safety.	28
RECOMMENDATION 4: The Secretary of the Department of Health and Human Services, and his or her delegates, should be empowered to direct local councils to undertake specific investigative and enforcement actions to regulate food service providers.	28
RECOMMENDATION 5: That the Government undertakes a review into the regulatory framework of food safety management with the intention of vesting oversight in the Department of Health and Human Services.	28
RECOMMENDATION 6: Any request from the chief executive officer of a local council to the Chief Health Officer to sign a closure order be made in writing and form part of any formal report required under the <i>Food Act 1984</i> .	29
FINDING 10: The absence of a litigation policy or any clear framework for balancing competing priorities of public safety and public expenditure at the City of Greater Dandenong is of concern.	31
FINDING 11: It is problematic for the chief executive officer of a local council to have conflicting interests within the same industry they are empowered to regulate.	33
RECOMMENDATION 7: That the Government reviews the management of conflicts of interest where a local council is a shareholder in a business that it is authorised to regulate, and determines whether corresponding amendments to the <i>Food Act 1984</i> are required.	33

FINDING 12: While Community Chef did gain additional business following the closure of I Cook Foods Pty Ltd, the Committee could not determine if this was directly due to the position held by the Chief Executive Officer (CEO) of the City of Greater Dandenong on the Community Chef Board, or any untoward behaviour by the CEO or the City of Greater Dandenong, Community Chef or the Department of Health and Human Services.

35

FINDING 13: The classification of I Cook Foods Pty Ltd as a Category 2A business was problematic as the classification is not recognised under the *Food Act 1984* and it enabled the business to operate in a high-risk area of service without the required regulatory oversight.

37

FINDING 14: The City of Greater Dandenong failed to review annual food safety audits of I Cook Foods Pty Ltd to ensure that its classification accurately represented the practices of the business.

37

RECOMMENDATION 8: That the City of Greater Dandenong undertake the corrective actions relating to classifications of premises as outlined in the audit report, *Independent investigation into Council's regulation of iCook (sic)*, including:

- conducting an audit of the classification of other food premises which Council regulates
- reviewing and considering the rationale and risks associated with the additional sub-classifications of 2A and 2B, as introduced by the Council
- reviewing the registration renewal process.

37

FINDING 15: The Ombudsman did not conduct an investigation into Ms Rogerson's allegations on the basis that there was insufficient evidence to do so. This does not mean the Ombudsman was satisfied there was no wrongdoing by the City of Greater Dandenong.

38

FINDING 16: It is unacceptable and improper that clients of I Cook Foods Pty Ltd were notified of its closure prior to the business being closed.

39

RECOMMENDATION 9: That the Department of Health and Human Services amends its notification process to prevent clients from being notified of a closure before a business has been informed that a closure order is to be served on it.

39

RECOMMENDATION 10: That the *Food Act 1984* be amended to allow for the addition of electronic transmission and publication of closure orders. 40

RECOMMENDATION 11: That the *Food Act 1984* be amended to align with developments in food safety regulation. In doing so the Government should consider the recommendations of the Victorian Competition and Efficiency Commission's Report, *Simplifying the Menu: Food Regulation in Victoria*, September 2007. 40

RECOMMENDATION 12: That the *Food Act 1984* be amended to consolidate reporting requirements to formalise an investigation that leads to the closure of a premises. 40

RECOMMENDATION 13: That the *Food Act 1984* be amended to reflect the modernisation of communication and reporting to support the timely completion of reporting. 40

1 The Inquiry

1.1 Introduction

Part One introduces the Inquiry into the Closure of I Cook Foods Pty Ltd. It includes the terms of reference, the evidence gathering process conducted by the Committee, and provides an overview into the matters subject to the Inquiry.

1.2 Terms of Reference

On 3 June 2020, the Legal and Social Issues Committee self-referred the following matter:

That the Legal and Social Issues Standing Committee inquire into, consider and report, by 30 July 2020, on the forced closure in February 2019 of I Cook Foods Pty Ltd, including—

1. actions undertaken by Department of Health and Human Services and the City of Greater Dandenong, its Chief Executive Officer and Council officers, for decisions made which led to the forced closure of I Cook Foods Pty Ltd;
2. whether any breaches of law and regulation by, or shortcomings of, government officials led to the forced closure of I Cook Foods Pty Ltd;
3. whether any conflict of interest arose during the City of Greater Dandenong's investigation, reporting and subsequent closure of I Cook Foods Pty Ltd;
4. the administration and management of Community Chef since January 2015, including the plans for the City of Greater Dandenong to sell its share of Community Chef and the plans for the Victorian Department of Health and Human Services to purchase a greater share of Community Chef; and
5. any other matters relating to the forced closure of I Cook Foods Pty Ltd.

1.3 Public Hearings

The Committee held public hearings on the following dates:

- 17 June 2020
- 23 June 2020

Transcripts for public hearings held during this Inquiry can be found at Appendix 17 and at: www.parliament.vic.gov.au/lisic-lc/article/4514

1.4 Background

This Inquiry was established against a backdrop of serious allegations levelled against both the City of Greater Dandenong and the Department of Health and Human Services (the Department) in relation to the closure of I Cook Foods Pty Ltd, a food manufacturing company based in Dandenong. Allegations, made by I Cook Foods business owner, Ian Cook, included improper conduct, perverting the course of justice and the denial of fair and proper process in the course of a food safety investigation. City of Greater Dandenong Environmental Health Officer, Kim Rogerson, also raised concerns as a whistleblower based on her work in food safety with the Council and at the I Cook Foods premises.

Events surrounding the closure of I Cook Foods have been the subject of extensive media interest and reporting, including a story on *A Current Affair* and a series of articles published by *ABC News*, over the course of 2019 and early 2020. The media coverage has had a particular focus on accusations of planting and falsification of evidence and allegations of an intent to undermine I Cook Foods in order to unfairly advantage another company.

In February 2019 an 86-year-old woman passed away at Knox Private Hospital from health complications after developing Listeriosis during her stay at the hospital. Listeriosis is an urgent notifiable condition that must be notified immediately to the Department by medical practitioners and pathology services. Laboratories are required to notify *Listeria monocytogenes* isolated from food or water.¹ The Department was notified of the Listeria infection, triggering an investigation into its source. The results of sample testing undertaken by the Public Health Laboratory indicated that I Cook Foods, which supplied food consumed by the patient, was the likely source.

I Cook Foods is a family business that has been in operation since 1986, providing pre-packaged meals to hospitals, the aged care sector and 'Meals on Wheels' services. The ensuing investigation of I Cook Foods led to the imposition of a closure order under section 19 of the *Food Act 1984* (the Food Act), which ultimately resulted in the loss of contracts and clients, the retrenchment of employees, and the cessation of operations at the business. I Cook Foods was also charged with 48 breaches of the Food Act, all of which were later dropped by the City of Greater Dandenong.

Subsequent accusations were made by Ian Cook that the closure of I Cook Foods was, in his words, part of a conspiracy to benefit a competing business, Community Chef. Mr Cook told the Committee that the allegations of improper conduct and unfair process were a means to this end. Ms Rogerson told the Committee that:

¹ *Listeriosis*, Department of Health and Human Services, <<https://www2.health.vic.gov.au/public-health/infectious-diseases/disease-information-advice/listeriosis>> accessed 23 July 2020.

I was shocked that I Cook Foods had been closed the way it was. It immediately became clear to me that council was looking for anything they could find to destroy I Cook Foods, and if they could not find any real evidence it became apparent that staff were willing to make it up.²

Further information about the timeline of events surrounding the closure of I Cook Foods can be found in Part 2 of this report.

In the Committee's view, the allegations made by Mr Cook and Ms Rogerson are serious allegations that warrant scrutiny.

The allegations raise significant concerns regarding the integrity of Victoria's food safety framework particularly in relation to the processes undertaken by Councils as regulators of food safety. They also call into question the need to amend the Food Act.

1.5 Inquiry process

The Committee conducted two public hearings over two days in Melbourne. A full list of witnesses is contained in Appendix 1.

Given the allegations and counter-allegations that had been made in relation to the I Cook Foods matter, the Committee was mindful of how important it was that the involved parties were given an opportunity to publicly state their views on the matter and respond to any accusations or allegations made against them.

The Committee also received extensive documents, records and other materials from the various parties to the I Cook Foods matter and from independent experts in food safety processes and regulation.

In particular, the evidence and materials provided to the Committee by Ian Cook, Kim Rogerson, the City of Greater Dandenong, the Department of Health and Human Services and the Microbiological Diagnostic Unit at the Public Health Laboratory were crucial in enabling the Committee to gain a detailed understanding of the events surrounding the closure of I Cook Foods.

1.6 Scope of the report

The Committee acknowledges that this Inquiry may be extremely difficult for the deceased's family and friends, and the staff and other residents at the retirement village where she lived. The Committee offers its condolences to them.

The Committee received evidence that I Cook Foods was served a closure order on valid grounds and for a proper purpose under section 19(1) of the Food Act. The Committee does not see its task as an investigation into the food safety issues that formed the

² Ms Kim Rogerson, Environmental Health Officer, public hearing, Melbourne, 17 June 2020, *Transcript of evidence*, p. 28.

1

grounds of the Closure Order imposed on I Cook Foods, nor to examine whether I Cook Foods was, or was not, in compliance with food safety requirements.

Rather, the terms of reference direct the Committee to consider the actions taken and decisions made by the Department of Health and Human Services and the City of Greater Dandenong in relation to the closure of I Cook Foods. The Committee also set out to determine whether any breaches of law or regulation by officials led to the closure.

The terms of reference also ask the Committee to consider whether there was any improper conduct connected with the closure of I Cook Foods resulting from a conflict of interest relating to the City of Greater Dandenong CEO's position on the Board of rival business, Community Chef, and/or the pending sale of Community Chef to the State Government.

In short, the Committee set out to determine whether I Cook Foods was subject to a sound and proper process and fair treatment in the handling of the food safety investigation and imposition of the Closure Order.

During the inquiry process the Committee received evidence of inconsistent reporting practices, fluctuation in inspection procedures, inadequate processes, inadequate adherence to the processes in place, and poor communication by the City of Greater Dandenong. The Committee believes that this evidence is indicative of significant shortcomings in the City of Greater Dandenong's handling of the closure of I Cook Foods. On the weight of evidence presented to it, and irrespective of any other finding in this matter, the Committee believes that I Cook Foods was neither served well by the City of Greater Dandenong nor the food safety regulatory framework.

1.7 Stakeholders

There are three key stakeholders directly involved in the investigation and closure of I Cook Foods. They are:

- I Cook Foods Pty Ltd
- Environmental Health Department, City of Greater Dandenong
- Chief Health Officer and the Food Safety Unit, Department of Health and Human Services.

1.7.1 I Cook Foods Pty Ltd

The Committee was informed that I Cook Foods was a family-run business that had been in operation since 1986. It provided pre-prepared meals to hospitals, aged care facilities and Meals on Wheels services.

At the time of its closure, I Cook Foods employed 41 staff members and was estimated to provide approximately 7,000 meals per week.

1.7.2 Environmental Health Department, City of Greater Dandenong

The Environmental Health Department at the City of Greater Dandenong oversees compliance with the Australian Food Standards Code by registered food traders in its municipality. The Unit takes over 300 samples of food per year for testing and it has the ability to:

- conduct random inspections of food businesses to ensure compliance with relevant state and federal laws
- purchase food samples to ensure compliance with relevant food standards
- investigate complaints relating to:
 - food contamination or poisoning
 - poor food handling practices
 - illegal food operators (those not registered under the Food Act or trading without 'Streetrader' approval)
 - dirty food premises
 - any other issue relating to food
- issue on-the-spot fines or commence legal proceedings for breaches of the Australian Food Standards Code.³

1.7.3 Chief Health Officer and the Food Safety Unit, Department of Health and Human Services

Food Safety Victoria⁴

The *Food Act 1984* provides the regulatory framework for the food industry to ensure that food sold in Victoria is safe, suitable and correctly labelled.

The Department of Health and Human Services shares responsibility for developing and administering food regulation with the Commonwealth and Victorian local councils, PrimeSafe and Dairy Food Safety Victoria, collaborating to promote consistent regulatory requirements in a widely dispersed and varied food industry.

³ *Food Safety*, City of Greater Dandenong, <<https://greaterdandenong.com/document/25752/food-safety>> accessed 22 July 2020.

⁴ *About the Food Safety Unit*, Department of Health and Human Services, <<https://www2.health.vic.gov.au/public-health/food-safety/food-safety-laws-local-government-and-auditors/food-safety-unit>> accessed 22 July 2020.

Chief Health Officer⁵

The Chief Health Officer, Prof. Brett Sutton, undertakes a variety of statutory functions under health and food-related legislation. He also provides expert clinical and scientific advice and leadership on issues impacting public health. The Chief Health Officer's responsibilities include:

- provision of expert advice on matters relating to the health and wellbeing of the people of Victoria to:
 - the Minister for Health and Ambulance Services
 - senior leaders in the Department of Health and Human Services
 - Emergency Management Victoria
 - the broader Victorian health sector
- issuing of health alerts and advisories to inform Victorians about health issues that may affect their health and safety
- performing the functions or powers specified in the *Public Health and Wellbeing Act 2008* or any regulations made under that Act
- being the spokesperson for the Victorian Government on matters related to health protection, including public health incidents and emergencies
- engaging with the community on public health matters
- publishing a comprehensive report on public health and wellbeing in Victoria every two years.

For the sake of clarification, Prof. Sutton was the Acting Chief Health Officer at the time of the events that are the subject of this Inquiry.

⁵ *About the Chief Health Officer*, Department of Health and Human Services, <<https://www2.health.vic.gov.au/public-health/chief-health-officer/about>> accessed 22 July 2020.

2 Timeline of events

The Committee has compiled an overview of key events leading to the closure of I Cook Foods Pty Ltd. This chronology is based on evidence provided to the Committee by stakeholders to the Inquiry. This overview does not seek to determine whether the actions taken by each party were appropriate, it presents the evidence as provided to the Committee.

Date	Events
13 January 2019	An 86-year-old woman was admitted to Knox Private Hospital with gastritis and colitis.
23 January 2019	The 86-year-old woman's condition deteriorated, and a blood culture test was taken.
25 January 2019	The blood culture test taken on 23 January grew <i>Listeria</i> . The Department of Health and Human Services (DHHS) was notified of the case of <i>Listeria</i> . This prompted the commencement of an investigation into the source. The treating doctor at Knox Private Hospital obtained a food history for the four weeks prior to the detection of the <i>Listeriosis</i> , including the food selections of the patient while in hospital.
29 January 2019	The Microbiological Diagnostic Unit at the Public Health Laboratory received the isolate sample of the 86-year-old woman taken from Knox Private Hospital. The Public Health Laboratory notified DHHS that it had received a human isolate of <i>Listeria monocytogenes</i> .
31 January 2019	The Communicable Disease Prevention and Control Unit at DHHS contacted the City of Greater Dandenong (the Council) to inform it of the investigation into the case of <i>Listeriosis</i> and identified that food under investigation was supplied by I Cook Foods. The Council informed I Cook Foods that samples needed to be taken from its premises at Zenith Road, Dandenong South.
1 February 2019	The Public Health Laboratory cultured the human isolate received from Knox Private Hospital to grow further before freezing it down to take a sample and undertake sequencing. Ms Leanne Johnson, the Public Health Coordinator from the Council, directed Ms Kim Rogerson, an Environmental Health Officer from the Council, to attend the I Cook Foods premises and take samples. At 7.30 a.m. Ms Rogerson took 25 samples at the I Cook Foods premises. Samples were taken from the kitchen, utensils and ingredients and sent to the Public Health Laboratory. The samples taken from I Cook Foods by the Council were received by the Public Health Laboratory and stored as the laboratory does not operate on a weekend.
4 February 2019	The 86-year-old woman died with <i>Listeriosis</i> being attributed as a secondary cause of the patient's death. The Public Health Laboratory processed the samples taken from I Cook Foods for the detection of <i>Listeria</i> .
11 February 2019	The Public Health Laboratory issued a full identification of the <i>Listeria</i> isolated from the patient's blood and isolate sample, including the binary type and serotype.
15 February 2019	The Public Health Laboratory issued a report outlining the detection of <i>Listeria</i> in the samples taken from I Cook Foods. The same strain of <i>Listeria monocytogenes</i> was present in four food samples, the ham and corned beef sandwiches. The <i>Listeria</i> concentration was not referred to in this report. I Cook Foods pest controller, Hayes Pest Control, attended the premises and did not identify any slug or other insect activity.

Date	Events
18 February 2019	<p>The Council was informed that the 86-year-old woman had passed away.</p> <p>The Food Safety Unit of DHHS contacted the Council to advise that six of the 25 samples obtained on 1 February from I Cook Foods had tested positive for <i>Listeria monocytogenes</i>. Four of those were linked to the human source.</p> <p>As a result of the information provided by DHHS, Ms Elizabeth Garlick, an Environmental Health Officer at the Council, was directed by Ms Johnson to inspect the I Cook Foods premises. Ms Garlick was sent as Ms Rogerson was on leave at the time.</p> <p>During the inspection, at approximately 11.00 a.m., Ms Garlick found a live slug on the floor of the premises and observed, in her opinion, poor food handling and cleaning practices. Ms Garlick reported this to Ms Johnson.</p> <p>Ms Johnson directed that two orders under the <i>Food Act 1984</i> be prepared and issued to I Cook Foods the next day.</p>
19 February 2019	<p>The Food Safety Unit at DHHS contacted the Council and requested the Council obtain specific information from I Cook Foods for the purposes of the <i>Listeria</i> investigations and require the business to undertake a specific clean for <i>Listeria monocytogenes</i>.</p> <p>As part of this, the Council provided documentation, including suppliers lists, distribution lists, and menu items, to DHHS.</p> <p>Ms Garlick attended the I Cook Foods premises with Senior Environmental Health Officer, Mr Gareth Little-Hales later in the day. While in attendance, Ms Garlick served I Cook Foods with:</p> <ul style="list-style-type: none"> • an order issued pursuant to s 19(1) and (2) of the <i>Food Act 1984</i>, which included 37 items for corrective action • an order issued pursuant to s 19W of the <i>Food Act 1984</i>, which included directions in respect of staff training, and audits to be undertaken at the I Cook Foods premises. <p>The section 19 order further stated that Ms Garlick was satisfied on the basis of her report dated 18 February that the premises was in an unclean and unsanitary state of disrepair and that remedial actions should be undertaken.</p>
20 February 2019	<p>Ms Garlick inspected the I Cook Foods premises to verify that the corrective actions ordered on 19 February had been adequately carried out.</p> <p>Ms Garlick reported to Ms Johnson that, in her opinion, the cleaning that had been conducted was not satisfactory or to the correct standard.</p> <p>Later in the day, Ms Johnson attended the premises with Ms Garlick and spoke to I Cook Foods' Production Manager, Mr Michael Cook, and General Manager, Mr Ben Cook, about their concerns with the quality of cleaning undertaken.</p> <p>It was Ms Johnson's and Ms Garlick's opinions that the food safety was compromised by cross-contamination risks due to food processes not being segregated from cleaning processes, poor hygiene practices and unskilled staff.</p> <p>Ms Johnson directed I Cook Foods to engage a specialist to conduct a full clean immediately.</p> <p>A major clean of the I Cook Foods premises was undertaken that evening.</p>

Date	Events
21 February 2019	<p>Ms Johnson spoke with the Food Safety Unit at DHHS over the telephone to raise the concerns that had been identified during Ms Garlick's inspections.</p> <p>During this communication, DHHS advised that I Cook Foods needed to change its food safety practices immediately by engaging a quality assurance specialist.</p> <p>Ms Garlick and Ms Johnson attended the I Cook Foods premises again for a further inspection. The purpose of this inspection was to follow up on a full clean that had been scheduled for the night before, to take new food samples and check what food safety measures had been undertaken.</p> <p>During the inspection Ms Johnson initiated an on-site meeting with Mr Ben Cook and informed him that she had spoken with DHHS over the phone and that the advice of the Acting Chief Health Officer was for I Cook Foods to cease production.</p> <p>During the meeting between Ms Johnson and Mr Ben Cook, it was established that I Cook Foods did not have an accredited food safety supervisor.</p> <p>At approximately 1.45 p.m. the Council provided DHHS with a copy of I Cook Foods' Food Safety Program for review.</p> <p>DHHS told the Committee that at approximately 2.45 p.m. they had notified the Council that they had concerns relating to the premises and requested the Council consider ordering the premises to cease all production until the Order was revoked.</p> <p>In the late afternoon, DHHS commenced drafting a closure order.</p> <p>The Council was notified at 6.34 p.m. that DHHS had commenced drafting a closure order.</p> <p>The CEO of the Council, Mr John Bennie, was informed of the advice to issue a closure order. As a result, Mr Bennie met with Mr Jody Bosman, Director, City Planning, Design and Amenity at the Council and determined Mr Bennie was not able to sign the Closure Order due to a conflict of interest.</p> <p>Mr Bennie's conflict of interest arose from his position as a member of the Board of Community Chef, a company that the Council was also a shareholder in, which provided similar services and products to I Cook Foods.</p> <p>DHHS prepared and sent emails at 8.00 p.m. to all clients of I Cook Foods notifying them of the Closure Order. The communication also instructed the clients not to eat any of the food that had been delivered them and to dispose of it. This was communicated to eight Councils, 10 hospitals and two aged care services.</p> <p>At around 9.00 p.m. Mr Bennie and Ms Johnson telephoned the Acting Chief Health Officer, Prof. Sutton, to explain the conflict of interest that prevented Mr Bennie from signing the Closure Order. Consequently Prof. Sutton instead used his own delegated authority under the Food Act to sign the Order.</p> <p>I Cook Foods undertook a chlorine fogging at its premises the night of 21 February.</p>

Date	Events
22 February 2019	<p>Ms Johnson attended the premises at 4.00 a.m. and served the Closure Order dated 21 February 2019 under s 19 of the <i>Food Act 1984</i>. The Order had been signed by the Acting Chief Health Officer.</p> <p>The Closure Order stipulated that I Cook Foods must:</p> <ul style="list-style-type: none"> • immediately cease the production of food on the premises • destroy all food produced since 13 January 2019. <p>A report from DHHS' Food Safety Unit that informed the decision to close the business was not supplied to I Cook Foods.</p> <p>The Closure Order included several conditions that had to be met within 14 days:</p> <ul style="list-style-type: none"> • a gap audit to assist in identifying the number and range of issues with process flow and physical fabric of the premises • a full Food Safety Program audit • confirmation that management and staff understood revised procedures • a test and hold program (a standard industry process where food is not released to market until the results of food samples are known and acceptable). <p>Ms Garlick and another Council officer attended the I Cook Foods premises with two DHHS authorised officers. During this visit, the DHHS officers proposed a variation to the Closure Order to enable I Cook Foods to re-commence lower-risk product lines.</p> <p>A sample from an I Cook Foods meal provided for Meals on Wheels was taken by Whitehorse City Council.</p> <p>Community Chef held a board meeting at 9.30 a.m. at which Mr Bennie was present. Shortly after 12.45 p.m. Mr Bennie briefed the Board in relation to the closure of I Cook Foods.</p> <p>During the board meeting, Community Chef resolved to write to I Cook Foods clients to offer its services.</p> <p>The Acting Chief Health Officer released a public health alert at approximately 2.00 p.m. relating to the temporary closure of a Dandenong South commercial caterer identified as the potential source of a confirmed case of Listeria.</p>
23 February 2019	<p>A variation to the Closure Order was issued.</p> <p>The variation implemented additional testing programs requiring all food to be tested for <i>Listeria monocytogenes</i> prior to distribution. I Cook Foods described this process as "problematic" as its products had a shelf life of five days, while Listeria testing processes take 10 days to complete.</p>
25 February 2019	<p>Health Spectrum undertook a gap audit at I Cook Foods, concluding that there had not been a fulsome review of the Food Safety Program in some time and that there were some serious concerns with hazard and risk processes.</p>
26 February 2019	<p>The Public Health Laboratory prepared an interim OzFoodNet genomics report that reported the relationship between the four food isolates of Listeria taken from I Cook Foods and the human isolate of Listeria.</p> <p>The report identified the four food samples taken from I Cook Foods were 'highly related' to one another as there were fewer than 5 differences out of 2.8 million.</p> <p>The four food samples from I Cook Foods and the human sample were found to be 'possibly related' as there were 9 differences out of 2.8 million.</p>

Date	Events
27 February 2019	<p>Gourmet Guardian undertook a food safety audit of I Cook Foods' food safety practices. As there was no food production at the time of the audit, the audit found that:</p> <ul style="list-style-type: none"> • I Cook Foods compliance with its Food Safety Program could not be observed • completion of monitoring records could not be matched to the operations • employees' knowledge of the I Cook Foods Food Safety Program could not be audited. <p>The audit also found:</p> <ul style="list-style-type: none"> • the General Manager had a very good knowledge of food safety temperatures • temperature limits were applied • daily monitoring forms and the frequency of monitoring appeared to be adequate to comply with DHHS expectations • I Cook Foods' safety program was not compliant with ISO 22000:2015 requirements and the independent auditors that had originally granted this accreditation were not approved by the DHHS • an independent gap audit may not have occurred in 2018 and previous inspections should have detected the deficiencies present • I Cook Foods had done what was legally required of them and not deliberately tried to short cut their legal responsibilities.
1 March 2019	<p>The Public Health Laboratory made a full genomics report to OzFoodNet. This report showed the levels of <i>Listeria monocytogenes</i> detected in the food samples were under the microbiological limit set by Food Standards Code.</p>
4 March 2019	<p>DHHS was notified that the I Cook Foods Meals on Wheels food sample taken by Whitehorse City Council had tested positive to a different strain of Listeria.</p>
28 March 2019	<p>The Acting Chief Health Officer revoked the Closure Order as he was satisfied that the Order had been complied with.</p> <p>A media statement was published on the Health Victoria website explaining the reason for I Cook Foods closure and detailing the steps that had been taken to rectify the issues identified.</p> <p>I Cook Foods reopened and contacted all non-Council customers to obtain business. However, those businesses declined I Cook Foods services; 41 employees of I Cook Foods were subsequently made redundant.</p>
18 April 2019	<p>I Cook Foods engaged legal representation to request a copy of the DHHS report that formed the basis of the decision to impose a closure order.</p>
9 May 2019	<p>The Council referred allegations made by Ms Rogerson to the Independent Broad-based Anti-Corruption Commission, which referred the complaint on to the Victorian Ombudsman as the appropriate body for investigation.</p> <p>Ms Rogerson had alleged:</p> <ul style="list-style-type: none"> • officers from the City of Greater Dandenong pressured her to falsify her statements to implicate the food catering business I Cook Foods in wrongdoing • the Council's CEO had a conflict of interest because of his position as a Director on the Board of catering business Community Chef • when she refused to falsify her statement, her ordinary work duties taken away, including conducting off-site inspections.
14 June 2019	<p>I Cook Foods was served with a charge-sheet in relation to 48 charges under the <i>Food Act 1984</i>. The presence of the slug was the basis of two of the charges.</p>
24 July 2019	<p>The Office of the Victorian Ombudsman notified both Ms Rogerson and the Council that in the absence of compelling evidence to support the claims that it would not be undertaking an investigation into the complaint.</p>
3 October 2019	<p>A pre-trial 'contest mention' took place at the Magistrates' Court regarding the 48 charges brought against I Cook Foods. At this session the Council withdrew all charges, citing costs of up to \$1.2 million to ratepayers.</p>

Date	Events
25 October 2019	I Cook Foods submitted a Freedom of Information request to DHHS for the report that led to the closure of the business. This request was denied. Other requested documents relating to the closure were supplied to I Cook Foods by DHHS.
28 November 2019	I Cook Foods filed a motion in the Supreme Court of Victoria seeking an order for discovery of documents relating to its closure and the handling of the food safety investigation into the business.
17 February 2020	The Supreme Court ruled in favour of I Cook Foods and DHHS was ordered to supply the documents as part of the discovery process.
14 April 2020	During a press conference Minister for Health, the Hon. Jenny Mikakos, confirmed the existence of a Victoria Police investigation but did not comment on its status or outcome.
3 June 2020	The Legislative Council's Legal and Social Issues Committee self-referenced the Inquiry into the closure of I Cook Foods Pty Ltd.
17 June 2020	<p>The Committee held a public hearing and heard evidence from:</p> <ul style="list-style-type: none"> • I Cook Foods Pty Ltd — <ul style="list-style-type: none"> – Mr Ian Cook, Owner – Mr Paul Brady, former Detective Sergeant, Victoria Police, assisting Mr Cook in an advisory capacity • Ms Kim Rogerson, Environmental Health Officer.
24 June 2020	<p>The Committee received correspondence from Victoria Police informing the Committee that a large amount of information had been recently provided to it and that this had been assigned to an investigator for assessment.</p> <p>The Committee held a public hearing and heard evidence from:</p> <ul style="list-style-type: none"> • City of Greater Dandenong — <ul style="list-style-type: none"> – Mr John Bennie, Chief Executive Officer – Mr Jody Bosman, Director, City Planning, Design and Amenity – Ms Mandy Gatliff, Manager, Community Care – Ms Elizabeth Garlick, Environmental Health Officer – Ms Leanne Johnson, Coordinator, Public Health • Microbiological Diagnostic Unit, Public Health Laboratory — <ul style="list-style-type: none"> – Prof. Ben Howden, Director – Dr Susan Ballard, BSc, PhD, Principal Scientist • Community Chef — <ul style="list-style-type: none"> – Mr Joe Ciccarone, Chief Executive Officer – Adj Prof. Hayden Raysmith, AM, Deputy Chair of the Board • Department of Health and Human Services — <ul style="list-style-type: none"> – Prof. Brett Sutton, Chief Health Officer – Dr Angie Bone, Deputy Chief Health Officer – Mr Greg Stenton, Deputy Secretary, Corporate Services • Mr Deon Mahoney, Head of Food Safety, Produce Marketing Association Australia-New Zealand

3 Systemic challenges

In the course of conducting the Inquiry into the closure of I Cook Foods Pty Ltd the Committee received evidence that I Cook Foods was served a closure order on 22 February on valid grounds and for a proper purpose under section 19(1) of the *Food Act 1984* (the Food Act).

The Committee identified the presence of several systemic issues that contributed to significant shortcomings in the food safety investigation into, and closure of, I Cook Foods.

Significant shortcomings include the abrupt nature of the escalation of known food safety issues at I Cook Foods, the circumstances leading to the use of delegated closure powers by the Acting Chief Health Officer, and poor communication and reporting to both I Cook Foods and the Department.

The Committee also considers that changes to the Food Act are necessary to improve food safety processes and procedural fairness for businesses in Victoria.

The Committee's findings in relation to the City of Greater Dandenong (the Council) are consistent with findings of an *Independent investigation into Council's regulation of iCook* (sic) (the audit report) commissioned by the Council into its regulation of I Cook Foods. Following several requests to access the audit report, to which the Council did not accede, the Committee sought access to review this document on summons, served on the City of Greater Dandenong on 24 July 2020. The Council complied with the Committee's request and produced the requested document on 25 June 2020. A summary of the audit report appears in Appendix 2.

The findings and recommendations contained in the audit report are consistent with the Committee's own findings and recommendations over the course of this Inquiry. Evidence provided by the City of Greater Dandenong's Director, City Planning, Design and Amenity, Mr Jody Bosman at a public hearing does not give the Committee confidence that the audit report recommendations have been accepted and comprehensively implemented. In relation to the reasons for commissioning the audit the Committee was told:

Arising from this matter, it was very important that I along with other executive members had a clear understanding of the position that we were in. If there had been fault, if there had been mistakes made, if there had been certain things done, then we wanted to know about it, so we required an audit to be undertaken in relation to that, but found, arising from that audit, that fundamentally there were no issues for us to be concerned about.⁶

⁶ Mr Jody Bosman, Director, City Planning, Design and Amenity, City of Greater Dandenong, public hearing, Melbourne, 24 June 2020, *Transcript of evidence*, p. 20.

Despite the evidence from the City of Greater Dandenong that there were, variously, no issues, or that the Council had taken appropriate steps to rectify issues where they had been identified, this Inquiry and the audit report suggest that this is not the case. The Committee urges the Council to implement any outstanding recommendations in the audit report as a matter of priority.

RECOMMENDATION 1: The City of Greater Dandenong implements all recommendations in the audit report, *Independent investigation into Council's regulation of iCook (sic)*, as a matter of priority.

3.1 Validity of Closure Order

I Cook Foods was served a closure order at 4.00 a.m. on 22 February 2019. The Order, signed by Acting Chief Health Officer Prof. Brett Sutton on 21 February 2019, under his delegated authority under the Food Act, stipulated that I Cook Foods was to immediately cease production for 14 days in order to rectify several food safety issues.

The matters to rectify included:

- Bringing the food premises into a clean and sanitary condition or to be altered or improved to the satisfaction of an authorised officer.
- Ensuring all food prepared, sold or otherwise handled at the premises was safe and suitable.

A copy of the Closure Order can be found in Appendix 3.

The Committee heard evidence from I Cook Foods owner Mr Ian Cook at a public hearing suggesting the Closure Order made under section 19 of the Food Act was made under the wrong section of the Act and that section 44 should have been used.⁷ Prof. Sutton clarified that section 19 was the appropriate section, in doing so he explained when section 44 of the Act should be used. He said:

No, section 44 does not relate to urgency per se. Section 19 relates to a premises that is within the responsibility of a particular council area. So for settings that sit within a council section 19 is the normal and routine section to use under the Food Act. As I say, if you are making a statewide or Australia-wide recall, then the emergency section would be more commonly used.⁸

⁷ Mr Ian Cook, Director, I Cook Foods Pty Ltd, public hearing, Melbourne, 17 June 2020, *Transcript of evidence*, p. 9.

⁸ Prof. Brett Sutton, *Transcript of evidence*, p 86.

Evidence was also provided to the Committee from the Council and the DHHS that the order to close the business was executed on valid grounds and for a proper purpose. At a public hearing, Prof. Sutton clarified the guiding principles of the role of the Chief Health Officer and the primary reason for the closure of I Cook Foods. He said:

With regard to my role as Chief Health Officer, the *Public Health and Wellbeing Act 2008* requires that I am guided by a number of principles, one of which is the precautionary principle in my role of protecting the health of Victorians and to uphold the primacy of prevention—or, in other words, prevention of harm is better than cure once it has arisen.

I acted to prevent the potential widespread transmission of Listeria infection to a vulnerable community of hospital patients, Meals on Wheels recipients and residents in aged-care facilities. If I had not closed at the time I did, there was a significant risk of many vulnerable Victorians contracting Listeria.⁹

Ms Leanne Johnson, the Public Health Coordinator at the City of Greater Dandenong, explained at a public hearing that the Council's inspections of the I Cook Foods premises between 18 February 2019 and 21 February 2019 identified a series of food safety non-compliance issues. Ms Johnson outlined the correspondence she had with DHHS highlighting her concerns with food safety practices at I Cook Foods. She said:

On 21 February I discussed with the department's food safety unit the food safety concerns identified. It was agreed that I Cook Foods' food safety practices needed to change immediately. This included its cleaning practices and training of food handlers.¹⁰

The Council and DHHS supplied the Committee with photographs, file notes and emails relating to the investigation and inspections of the I Cook Foods premises undertaken between 18 and 21 February 2019. These documents can be reviewed in Appendix 4.

At a public hearing, Prof. Sutton told the Committee that he would have lifted the Closure Order with immediate effect if the DHHS inspections carried out at the I Cook Foods premises on 22 February 2019 found the Council's reports to be wrong. He said:

There was a day of the closure when DHHS authorised officers from the food safety unit also went out. If they had found those reports to be manifestly wrong or inadequate, then I would have lifted the closure order then and there. So there was an immediate, if you like, checking of the claims or the statements that EHOs from council had made.¹¹

A copy of the report produced by the two authorised DHHS officers can be reviewed in Appendix 5.

The Committee does not consider it within the scope of this Inquiry or the Committee's expertise to determine whether the food safety issues, and related technical issues, that were detected by the Council or DHHS were adequate to warrant the closure of

⁹ Prof. Brett Sutton, Chief Health Officer, public hearing, Melbourne, 24 June 2020, *Transcript of evidence*, p. 63.

¹⁰ Ms Leanne Johnson, Coordinator, Public Health, City of Greater Dandenong, public hearing, Melbourne, 24 June 2020, *Transcript of evidence*, p. 8.

¹¹ Prof. Brett Sutton, *Transcript of evidence*, p. 75.

the premises. However, the Committee is satisfied that the Closure Order issued by Prof. Sutton was done in accordance with the requirements of the Food Act.

FINDING 1: The Closure Order, signed by the Acting Chief Health Officer, issued pursuant to section 19 of the *Food Act 1984* was prepared and served on valid grounds and for a proper purpose.

3.2 Investigation into the source of *Listeria monocytogenes*

The Committee was informed that the trigger for the investigation into I Cook Foods was due to a notification that an 86-year-old woman had contracted Listeriosis during her stay at Knox Private Hospital.

Part Two of the report provides a timeline of events that were undertaken in relation to the sampling and testing for *Listeria monocytogenes*, and can be referred to for that information.

The evidence provided to the Committee by the Microbiological Diagnostic Unit Public Health Laboratory (MDU) indicated that of the 25 samples taken from the I Cook Foods premises on 1 February 2019, *Listeria monocytogenes* strains detected in four food samples were possibly related to the human sample.¹²

3.2.1 Categories of sampling

Prof. Howden, Director of the Unit, explained the categorisation of the samples being ‘possibly related’. At a public hearing he said:

This designation is based on previous work looking at the genetic difference between these samples. *Listeria* has about 2.8 million bases in its genome, and we found that there were less than 10 differences between the human sample and the food samples—but it was more than five. Because of the stringency of the criteria we use—for calling things ‘probably’ or ‘highly’ related, it is less than five; and then between five and 10, ‘possibly’ or ‘probably’, dependent upon epidemiological data; and then for greater than 20 we would say these appear to be unrelated—we classified this based on the genomic sequencing as possibly related. In that case our lab provides the genetic data, and then

¹² Prof. Ben Howden, Director, Microbiological Diagnostic Unit Public Health Laboratory, public hearing, Melbourne, 24 June 2020, *Transcript of evidence*, p. 42.

the epidemiology is what is then important. We are not privy to that epidemiology—you know, ‘Did the person who had this sample eat the potentially related food?’, ‘What was the timeline?’ and those sorts of things—so we are not involved in that information.¹³

Further, Prof. Howden informed the Committee of the exact number of differences in the samples and gave clarification to the category of the samples given by the MDU. He said:

At the middle of that there were about nine differences out of 2.8 million. So there are 2.8 million bits in the genome, and nine of them were different between the human and some of the food samples. Even within the four food samples that were taken from the setting, there were seven differences between some of those food samples, so that shows you that even the diversity or the differences within the food samples are more than that cut-off of five. So although we call it ‘possibly related’, what we are doing is we are saying that it is not completely identical, we are worried about this and therefore we are giving it that category of orange.¹⁴

In relation to the *Listeria monocytogenes* detected in samples taken from I Cook Foods, Mr Cook told the Committee there had been similar samples found in Queensland in 2019 yet I Cook Foods had not supplied foods to that State.¹⁵

Dr Susan Ballard, BSc, PhD, Principal Scientist at the MDU, addressed the genetic relationship between the I Cook Foods and Queensland samples at a public hearing. She told the Committee:

You will see a Queensland isolate listed. What appears to be close on the tree was a human isolate, for a start; it is not a food isolate. Interpreting phylogenetic trees can be misleading when you look at them from a visual point of view. The exact relationship has nothing to do with the vertical presentation of the data but with respect to the horizontal presentation of the data. If you were to look at it from a simplistic point of view and add up all of the different lines that connect those samples on the horizontal view, the distance between that Queensland isolate and the remaining Victorian isolates is quite long.¹⁶

Addressing the genetic links between the *Listeria* samples, Prof. Howden also told the Committee:

Sequence type 3 is a higher-level classification of *Listeria*. There are lots of sequence type 3 *Listeria* samples around the world, but what the front page of the report suggests is that the four non-Victorian samples are highly related to each other and potentially related to the one Victorian case we are talking about. But there are no other cases that are potentially related. And then if you look at the colour coding on the tree, the sample that sits near these on the tree is actually in green and the code is that these recent

¹³ Ibid., p. 42.

¹⁴ Ibid., pp. 43–4.

¹⁵ Mr Ian Cook, *Transcript of evidence*, p. 4.

¹⁶ Dr Susan Ballard, BSc, PhD, Principal Scientist, Microbiological Diagnostic Unit Public Health Laboratory, public hearing, Melbourne, 24 June 2020, *Transcript of evidence*, p. 42.

cases are not linked to any other case and so no further investigation is required. So it is absolutely clear-cut that this Victorian human case is potentially linked to the four food samples but not to any other cases in our databases, in the Australian databases or in the global databases.¹⁷

3.2.2 Further investigation of Listeria

Mr Cook, at a public hearing, alleged that no other business or supplier was investigated for a potential link to the Listeria detected in the human sample.¹⁸ The Committee questioned DHHS about this at a public hearing.

The Department informed the Committee that several other avenues were investigated as part of determining the source of the case of Listeriosis as follows:

- DHHS undertook interviews with the patient's next of kin and treating doctor to obtain the patient's food history for four weeks prior to Listeriosis illness, including the location of where the patient shopped.
- Knox City Council undertook sampling and a food safety assessment of Knox Private Hospital.
- Manningham Council took food and environmental samples from the Coles, Woolworths, Mirabella Bros and the Aveo Domaine retirement village where the patient shopped and resided, but no Listeria was detected.
- PrimeSafe undertook an investigation of the smallgoods producer linked to I Cook Foods and was satisfied with the sampling results and Listeria management plan.¹⁹

The Committee is satisfied that DHHS investigated other potential sources of Listeria that may have led to the 86-year-old woman's illness. Further, the Committee accepts the evidence of Prof Howden and Dr Ballard that the data does not support I Cook Foods' assertion that the Listeria samples detected at I Cook Foods were 'exact genetic human matches' to the Queensland samples.²⁰ The Committee notes that the MDU gave evidence that the four food samples were 'possibly related' to the human sample within the classifications outlined in section 3.2.1 (above).

3.3 City of Greater Dandenong's handling of the closure

It is the Committee's view that the City of Greater Dandenong did not exercise adequate, accountable or consistent operational and decision-making processes in the lead up to the closure of I Cook Foods. The evidence received highlights significant shortcomings in the manner in which the City of Greater Dandenong handled the matter.

¹⁷ Prof. Ben Howden, *Transcript of evidence*, pp. 42–3.

¹⁸ Mr Ian Cook, *Transcript of evidence*, p. 4.

¹⁹ Prof. Brett Sutton, *Transcript of evidence*, pp. 64–5, 68.

²⁰ Mr Ian Cook, *Transcript of evidence*, p. 4.

3.3.1 Environmental Health Unit processes

The operational processes of the City of Greater Dandenong (the Council) in relation to its food safety role and responsibilities were covered in some detail during the Inquiry. The Committee heard conflicting evidence regarding some internal processes the Environmental Health Unit (EHU) follows when conducting food safety inspections, checking food safety programs, keeping accurate records and following-up on identified compliance issues. This was also apparent in the written material provided by stakeholders.

The Committee's observations are consistent with the findings of the audit report commissioned by the Council to review its handling of its investigation into I Cook Foods.²¹

The Committee heard evidence from Ms Johnson that the management portfolio of Environmental Health Officers (EHOs) was rotated every three to four years.²² However, given the evidence of Ms Rogerson (a Council Environmental Health Officer who had raised whistleblower concerns regarding the handling of I Cook Foods' closure) that she had been responsible for the oversight of I Cook Foods for more than five years to January 2019²³, the Committee notes the rotational policy was not followed in this case.

FINDING 2: The City of Greater Dandenong's three to four-yearly portfolio rotation policy for Environmental Health Officers was not followed in relation to I Cook Foods Pty Ltd.

Ms Johnson also told the Committee that she had recently become aware of some differences in the way EHOs undertook their duties when inspecting premises. She said:

I only learned recently of Officer Garlick's response when she attended. The inspections I conducted at I Cook Foods myself were unannounced—they were not expecting me to arrive. And yesterday I learned that when Officer Garlick, who can speak to this, arrived on her first day she was given the impression as if inspections had been booked in and appointments made previously. If an appointment is made, it is at a time suitable to the manufacturer. It might be a time when they are at their end-of-day production or they are just starting up and then it is not in their busy peak. The fact that our inspections were occurring when they were in mid-operation was giving us an opportunity to see what the flow of the processes was and what the knowledge was.²⁴

The Committee notes that there appears to have been inconsistent scheduling and attendance practices employed by EHOs in relation to I Cook Foods. The Committee notes that significant variations in how inspections and monitoring were undertaken may have contributed to a lack of consistently rigorous standards of compliance monitoring over time.

²¹ Maddocks Lawyers, *Independent investigation into Council's regulation of iCook (sic)*, report for the City of Greater Dandenong, Melbourne, 2019.

²² Ms Leanne Johnson, *Transcript of evidence*, p. 26.

²³ Ms Kim Rogerson, *Transcript of evidence*, p. 27.

²⁴ Ms Leanne Johnson, *Transcript of evidence*, p. 22.

The Committee notes concerns about the role of EHOs in relation to Council regulatory processes. For example, issues arising as a result of an EHO being assigned to the same food premises for a protracted period and a reluctance to employ certain powers available to EHOs under the Food Act. In relation to I Cook Foods these were also noted by the audit report investigator:

... as a general observation, that whilst CGD [the City of Greater Dandenong] appears to have dealt promptly with concerns where they have arisen and communicated effectively with complainants and interested parties (almost invariably local Councils), there is little evidence that outside of the complaint framework, CGD was proactively monitoring the safety and performance of I Cook. For example, whilst CGD (through its E[H]Os) has extensive powers under s 21 of the Food Act, including to at any reasonable time enter any premises for the purpose of determining whether provisions of the Food Act are being complied with, it would appear that this power was rarely (if ever) utilised. Whether this is a consequence of the same EHO being assigned (often for extended periods) to the same food premises is a matter that might warrant consideration.²⁵

FINDING 3: The scheduling and attendance practices of Environmental Health Officers at the City of Greater Dandenong do not reflect best practice in relation to food safety processes.

3.3.2 On-going food safety compliance monitoring and management

The Committee received inconsistent evidence relating to the food safety compliance history of I Cook Foods.

At a public hearing, Mr Cook stated that I Cook Foods had never been cited for unsafe practices.²⁶ When the Committee asked directly about any adverse food health findings in the past Mr Cook said ‘Never. Nothing, ever.’²⁷

Records and documentation received from the City of Greater Dandenong demonstrate ongoing concerns raised about the presence of *Listeria*, and food safety standards and practices at I Cook Foods dating back to 2015. An example of compliance issues identified in 2017 can be found at Appendix 6.

Upon review of the records provided, the Committee found there were inconsistent and often ad hoc approaches to the reporting, monitoring and follow-up of food safety matters by the Council. As such, the Committee does not consider the use of file notes and saved emails as fulfilling accountable reporting practices, these documents should only supplement a formal record of an inspection or incident and its findings.

²⁵ Maddocks Lawyers, ‘Investigation Report’, *Independent investigation into Council’s regulation of iCook* (sic), report for the City of Greater Dandenong, p. 18.

²⁶ Mr Ian Cook, *Transcript of evidence*, p. 6.

²⁷ *Ibid.*, p. 21.

Similar concerns are raised in the audit report, which raises the lack of rigour around documentation of inspections. The report states:

... the methodology used by Council in its inspections of iCook (sic) is very difficult to discern. The [Investigator's] Report comments that there was a lack of rigour around note taking and documentation. Questions such as when an inspection occurred, what was done and how it was done are not easily answered based on the documentation. Considering the direct link between the work of an EHO and Council's role in the prosecution of noncompliant food businesses, this lack of thorough or instructive documentation is particularly concerning.²⁸

At a public hearing, the Committee asked Ms Johnson when she first became aware of various food safety issues at I Cook Foods. Ms Johnson indicated she had only become aware on 18 February 2019, she said:

Yes, I learnt them in the week of 18 February, so as I was getting reports back from Officer Garlick in regard to the non-compliances identified, I then started to review their file to have a look at what their past performance history was.²⁹

The Committee notes that within the documents provided by the Council, there are emails showing direct communication about known compliance issues at I Cook Foods sent to Ms Johnson. Example emails appear in Appendix 7.

The Committee also reviewed the extensive evidence provided to DHHS by the Council of food safety compliance issues at the I Cook Foods premises that formed part of the grounds for the issue of the Closure Order. The Committee notes that many of the identified issues were long-standing, including problems with the floor, large oven placement, configuration of walkways, rusted or damaged equipment, and deficiencies in I Cook Foods' Food Safety Plan.

In relation to the management of historical compliance issues at I Cook Foods, the Committee was particularly concerned by the findings in the audit report, shown in Box 3.1, that much of the onus for the oversight of corrective action taken by I Cook Foods fell to I Cook Foods itself, rather than being managed by the Council.³⁰

In the Committee's view, the responsibility for management and oversight of food safety regulatory compliance and, in particular, the oversight and monitoring of corrective action, goes to the heart of what it means to be a regulator and registration authority. The Committee considers that the Council did not adequately fulfil its role as a responsible food safety regulator in respect of its management of I Cook Foods.

FINDING 4: The City of Greater Dandenong did not adequately fulfil its role as the responsible food safety regulator in respect of its management of I Cook Foods Pty Ltd.

²⁸ Maddocks Lawyers, 'Advice', *Independent investigation into Council's regulation of iCook* (sic), p. 7.

²⁹ Ms Leanne Johnson, *Transcript of evidence*, p. 23.

³⁰ Maddocks Lawyers, 'Advice', *Independent investigation into Council's regulation of iCook* (sic), pp. 7-8.

BOX 3.1: Extract from audit report, *Independent investigation into Council's regulation of iCook (sic)*, pp. 7–8**24. Response to complaints**

- 24.1 Between 2016 and 2018 Council received 13 notifications or complaints regarding concerns about food originating from the iCook (sic) facility.
- 24.2 [The investigator] found that Council responded to these concerns/complaints by:
- 24.2.1 informing iCook (sic);
 - 24.2.2 commissioning its own testing of food samples and/or environmental swabs;
 - 24.2.3 having a 'conversation' with a representative of iCook (sic) and/or conducting an inspecting (sic) of the food premises; and
 - 24.2.4 requesting that iCook (sic) raise a corrective action report in response to the particular event.
- 24.3 While Council acted promptly in response to these complaints, the Report notes that iCook (sic), rather than Council, assumed responsibility for identifying and documenting actions taken to redress the issues.
- 24.4 We agree with [the investigator's] comment that:
'this approach had the potential to both downplay the gravity of the situation concerned (from the point of view of iCook (sic)) and to discourage active scrutiny by [Council] of the potential cause of (in particular) the food contamination.'
- 24.5 The Report indicates that there is little evidence that Council was proactively monitoring the safety and performance of iCook (sic) (outside of the complaint framework). While an EHO has extensive powers under the Food Act but these powers were rarely (if ever) utilised in relation to iCook (sic).

Also of note are observations in the Gap Audit and the Food Safety Audit of I Cook Foods that were conducted during the period the Closure Order was in effect. Findings in both audits reinforced the Committee's view that I Cook Foods has been poorly served by auditors and regulators alike over a significant period of time. Extracts from these audits appear in Boxes 3.2 and 3.3. The audits also appear in full at Appendices 8 and 9.

The related issue of the annual auditing of I Cook Foods as a class 2 premises is discussed in section 3.7, below.

BOX 3.2: Extract of Gap Audit Report of I Cook Foods Pty Ltd conducted 25 February 2019, p 7

The FSP [Food Safety Plan] gives the impression that as the processes have developed over the years bits and pieces have been added and nobody has reviewed the plan as a whole.

All the processes are so intertwined that is hard to separate out the processes.

There are no clear SOPs for any step in any of the processes.

The Hazard Analysis and Risk Analysis is not clear for any process.

There isn't a Hazard Analysis and Risk Analysis for Texture Modified Meals.

The training of both of the Food Safety Supervisors is for the Food Processing Industry. I Cook is in reality a large catering organization so they really should have the Food Supervisor Competencies, at least for the Hospitality industry, if not for the Health industry. I would also recommend that somebody within the organization undertake training in Certificate IV in Food Science and Technology or a similar qualification.

My conclusion is that the plan as it is at the current time needs to be fully reviewed to ensure that the FSP addresses all the current legal, requirements to conduct the business.

BOX 3.3: Extract of Confidential Food Safety Audit of I Cook Foods Pty Ltd conducted 27 February 2019, p 4

I Cook Foods Pty Ltd have been externally audited by third party auditors approved by the Department of Health and Human Services (Victoria) for well over 10 years (though it appears that an audit may not have been conducted in 2018). It is my professional opinion that the previous external auditors have not served I Cook Foods Pty Ltd very well and should have detected the deficiencies in the I Cook Foods Pty Ltd Food Safety Program that I have found today. I believe that I Cook Foods Pty Ltd have done what they thought was legally required, and have not deliberately tried to short cut their legal responsibilities.

The Committee asked DHHS about the history of complaints that existed in relation to I Cook Foods. Prof. Sutton indicated that all previous inspections were undertaken by the Council, he said:

We have not been involved as a department in the previous inspections that have been done by council. But I would say that some of the findings that were apparent when we were part of the investigation following this event would have been deficiencies that had been longstanding. Some of them were structural, many of them were process and some of them related to training and understanding. There can be ebbs and flows in some of those aspects, but a number of them seem to be deep-seated issues. I think, in some respects, council needs to take responsibility for having failed to identify how substantive those issues were and to have rectified them up to this point in time.³¹

Dr Angie Bone, Deputy Chief Health Officer, explained to the Committee that there are important roles to be played by each party in the management and consistent application of the Food Act. Dr Bone pointed out the need for the Council to ensure that audit reports, for example, are properly reviewed by Council and that any problems identified are rectified. She said:

... everybody has a critical role in this—the manufacturer, the council, the auditor, the department—and I think one thing we have not mentioned is the role of the auditor. So in a class 1 and many class 2 premises an independent audit is needed, and the department authorises those auditors. So the auditor is also an absolutely crucial part of identifying problems and then rectifying them. Council should review each audit report, and we have now put in a process called ‘audit the auditor’ that has been in place for the last two years to make sure that we are also looking at examining every audit that is done in a period of time by all of our auditors so that we can identify problems, and then we have a sort of performance management escalation of where we are seeing problems now because we understand how critical that role is.³²

3.3.3 Escalation of known issues

The evidence provided by the Council to DHHS formed much of the basis of the 48 charges brought against I Cook Foods and Ian Cook for breaches of the Food Act. At a public hearing, Mr Bosman told the Committee:

The sum of the seriousness of the breaches of the *Food Act* clearly demonstrated a food manufacturing business which had put public health at risk over a period of time.³³

When asked by the Committee about the timing in relation to when a council should escalate a series of significant concerns to the Department, Prof. Sutton pointed out the

³¹ Prof. Brett Sutton, *Transcript of evidence*, p. 73.

³² Dr Angie Bone, Deputy Chief Health Officer, public hearing, Melbourne, 24 June 2020, *Transcript of evidence*, p. 77.

³³ Mr Jody Bosman, *Transcript of evidence*, p. 6.

significant regulatory powers of Councils to request action by a manufacturer. He also observed the discretionary power the Council has to inform DHHS of concerns. He said:

...it is ultimately council's regulatory role to manage that. I think they have powers that are very substantial in terms of things that are not addressed, so if it gets above a threshold that makes them not satisfied that a premises can continue to operate, then they can close that premises or they can provide improvement orders or whatever requirements they feel are needed in order to mitigate that risk sufficiently that a premises can continue to operate. But I think the point about when we hear about it is an important one. It is a bit unclear to me exactly how it can be managed if a council is not taking appropriate action if we do not have line of sight of that council's response to issues that it identifies.³⁴

In response to a question put to her at a public hearing, Ms Rogerson explained her understanding of the typical process for shutting a business that has breached the Food Act. She told the Committee:

...Normally, with a business that is below par, shall we say, and does not comply with the Food Standards Code, normally, you would have a chat with them and say, 'Look, you know, you really need to step it up' or 'You really need to do'—you know, 'This is what you need to do'. And then you go back the next day or something and you say, 'Okay. Look, you still haven't done this. I can still see rodent faeces; I can still see' blah, blah. And you would say, 'Okay, you need 24 hours. I'm going to give you 24 hours to' X, Y, Z. If it is still not done, then you would start writing notices. Then I would take it to the coordinator to say, 'Okay, here are some photos. This is what I've done. This is how I've done it. Where should we go?' or 'This is how I would like to proceed'.³⁵

In contrast to Ms Rogerson's account above, Ms Johnson's evidence in relation to some of the issues at I Cook Foods indicates that the manner in which they were handled was only partially consistent with Ms Rogerson's description of a 'typical approach'. Ms Johnson told the Committee:

There was a large portion of new [issues] relating to the food handling practices only observed of the week of 18 February. The ongoing issues that were included were the maintenance of the flooring and that the floor was not laid appropriately—that would have allowed pooling of water. And the files show photographs that I Cook had done an extensive repair of that floor back in 2017. And reports are also on our file showing that I Cook Foods had repeatedly been told about the pooling of water and the maintenance of flooring.³⁶

The Committee notes that Ms Johnson's characterisation of issues relating to food handling practices as being 'new' is not consistent with the Gap Audit and Food Safety Audit that identified long-term inadequacies with I Cook Foods' Food Safety Plan.

³⁴ Prof. Brett Sutton, *Transcript of evidence*, p. 77.

³⁵ Ms Kim Rogerson, *Transcript of evidence*, p. 35.

³⁶ Ms Leanne Johnson, *Transcript of evidence*, p. 15.

Ms Johnson went on to say:

I Cook Foods had repaired the floors in 2017, so they had a new surface. When we inspect, we are looking at risk at the time. So depending on when the officer is there—it will depend on what they are observing. I cannot speak for Ms Rogerson, but if the inspections were in the morning, you may not have seen the pooling of the water. And if the premise is satisfactory in regard to the risk at the time, the premise would normally only receive one annual assessment.

[...]

There is one report in 2015, where another officer had attended the inspection in December, highlighting significant issues with the food safety program not being compliant and that an auditor had conducted an inspection. And due to council picking up those non-compliances, it was reported to the Department of Health and Human Services and then they spoke to the auditor. After that, the audit reports from Kim Rogerson then showed a change of focus, so I assumed that the rectifications of the food safety program had been remedied.³⁷

The Committee notes that despite the apparent identification and rectification of historical food safety issues at I Cook Foods as a result of compliance monitoring by the Council, many of these same issues were used to form the basis of the 48 charges laid against I Cook Foods.³⁸

The Committee was provided with minimal evidence that the Council's Environmental Health Unit had attempted to work meaningfully with I Cook Foods to address the issues purportedly first identified during the inspections conducted in February 2019. The escalation of matters to the point of pressing charges against I Cook Foods and Ian Cook seems to be inconsistent with the 'typical process', as explained to the Committee, of dealing with food safety matters for rectification. Long-standing issues that had been identified, but not managed were relied on to form the basis of action against the business in relation to its closure.

FINDING 5: The City of Greater Dandenong did not ensure that long-term food safety issues at I Cook Foods Pty Ltd were properly addressed in line with its food safety management processes and did not adequately communicate these issues to I Cook Foods as they arose.

FINDING 6: The abrupt nature of the escalation of known food safety issues at I Cook Foods Pty Ltd is concerning and points to deficiencies in process and access to procedural fairness.

³⁷ Ibid.

³⁸ Mr Jody Bosman, *Transcript of evidence*, p. 6.

FINDING 7: The City of Greater Dandenong had evidence of known non-compliant food safety practices at I Cook Foods Pty Ltd but did not effectively manage the rectification of these issues.

FINDING 8: The City of Greater Dandenong did not routinely review or refine its food safety processes to the standard expected of a food safety regulator.

RECOMMENDATION 2: That the *Food Act 1984* be amended to establish a uniform escalation process for local councils to notify repeated non-compliance of businesses to the Department of Health and Human Services.

RECOMMENDATION 3: That the Department of Health and Human Services work with local councils to develop a uniform process for early identification of health risks, particularly relating to Listeria.

3.3.4 Communication issues

The Committee was informed that there were difficulties in making contact with the Council in order to determine the course of action required to protect public safety. Prof. Sutton spoke of the communication difficulties encountered in contacting the Council and reaching agreement to serve the Closure Order. He told the Committee:

It did take some hours. They were not my personal efforts in picking up the phone, but there were a number of senior medical folk who were trying to contact council. They got some messages through. They got messages back that council were in a meeting and would not come out or could not come out and would be available at a certain point in the evening. It was, I think, approximately 9.30 pm from home when I managed to speak to [Council CEO] John [Bennie], but it took some time.³⁹

Further to this, Prof. Sutton, at a public hearing, noted that both the Council and DHHS were unable to work constructively with I Cook Foods to lift the Closure Order sooner. He stated that this was the only area he wishes could have been handled differently. He said:

I do not know what circumstances might have made it different in terms of working constructively with I Cook. I think it is a terrible shame that they have not gotten up and running again and that 41 people lost their jobs, some of whom have no doubt gone on to other work. But I wish we had found a common ground to constructively find a way to get it up and running. That was our motivation, with safety front and centre. Of course it was Ian Cook's motivation to get up and running as soon as possible, and for whatever

³⁹ Prof. Brett Sutton, *Transcript of evidence*, p. 79.

reason we could not come to that common view about how to make that happen. I think that is a mystery to me, but I think that is something that I wish we could do differently if we had our time again.⁴⁰

The Committee was informed by all witnesses that it is not normal for a premises to remain closed under a closure order for a month. Ms Rogerson described her experience with Listeria-related closures. She explained:

Many times we come across a notifiable bacteria or something of that category, and it is usually dealt with quite simply in terms of a cleaning up. Samples are taken, swabs are taken. And after the business has cleaned up and everything is fine, samples are fine, they are reopened very quickly. It has never taken as long as it took for the I Cook.⁴¹

The Committee is of the view that a breakdown in clear and constructive communication by the City of Greater Dandenong compounded the issues that led to the closure of I Cook Foods.

The Committee further notes that the Department did not adopt a consistent approach in communicating with the Council and I Cook Foods. This added to the lack of clear and consistent processes in relation to the decision to impose the Closure Order on I Cook Foods.

Given the circumstances of the Acting Chief Health Officer using his delegated authority to issue a closure order⁴² (the first time that such a delegation under the Food Act had been required to be used by a Chief Health Officer for this purpose) the Committee considers the deficiencies in communication surrounding these events compounded many of the problems that have been identified in this Inquiry.

FINDING 9: Robust and uniform communication processes are necessary in the area of food safety given the crucial and sometimes urgent need to protect public safety.

RECOMMENDATION 4: The Secretary of the Department of Health and Human Services, and his or her delegates, should be empowered to direct local councils to undertake specific investigative and enforcement actions to regulate food service providers.

RECOMMENDATION 5: That the Government undertakes a review into the regulatory framework of food safety management with the intention of vesting oversight in the Department of Health and Human Services.

⁴⁰ Ibid., p. 88.

⁴¹ Ms Kim Rogerson, *Transcript of evidence*, p. 30.

⁴² Prof. Brett Sutton, *Transcript of evidence*, p. 64.

RECOMMENDATION 6: Any request from the chief executive officer of a local council to the Chief Health Officer to sign a closure order be made in writing and form part of any formal report required under the *Food Act 1984*.

3.3.5 Improvements to the Environmental Health Team

The Committee heard evidence from the City of Greater Dandenong that a number of changes had been made to its Environmental Health Team to address processes that were found to be problematic in the handling of I Cook Foods. The changes reported to the Committee by the Council include:

- hiring a new Manager to whom the Coordinator reports
- rotating Environmental Health Officers across sites
- requiring Environmental Health Officers to undertake peer reviews
- restructuring Environmental Health Officer area coverage
- increasing resources.

Ms Johnson gave an overview of these changes at a public hearing. She said:

Since the incident, 1 January, we have had a change of areas. And with that change I have also had a new manager come on board who I report to. He has been able to provide changes that have also included additional resources, and we also have conducted peer reviews. Last year our team underwent routine inspections and assessments, and they themselves did peer reviews of each other to get a better understanding of how each other operates. With the structure of the areas, they have all been set up where we now have two officers over a broader area so that we have got that support in amongst the team to help individual officers as well.⁴³

The Committee is not persuaded that the changes the City of Greater Dandenong have undertaken are to the standard that will give the community, consumers or businesses confidence that issues of a similar nature that may be identified in the future would neither be addressed in a prompt, consistent, transparent and accountable way, nor deter poor food handling practices from being commonplace.

The Committee's view is that a high level of expertise is required in the ever more complex food safety environment, particularly when executing the important role of regulator. Currently this expertise resides with DHHS, which is not in a position to influence the regulatory process to the extent needed.

⁴³ Ms Leanne Johnson, *Transcript of evidence*, p. 35.

3.3.6 Litigation by the City of Greater Dandenong

The Committee was informed that on 14 June 2019 the Council brought 48 charges in the Magistrates' Court against I Cook Foods for its alleged failure to meet the requirements of the Food Act.⁴⁴

Mr Bosman, at a public hearing, characterised the seriousness of the breaches as demonstrating that I Cook Foods had put public health at risk over a period of time. He said:

The sum of the seriousness of the breaches of the Food Act clearly demonstrated a food manufacturing business which had put public health at risk over a period of time. Breaches of the Food Act carry with them significant penalties for that reason, and on the basis of the evidence presented to me, I gave my approval to proceed with prosecution.⁴⁵

A summary of the 48 charges can be found in Appendix 10.

The Committee was informed by Mr Bosman that on 3 October 2019 (the contest mention in the Magistrates' Court), the Council withdrew all charges against I Cook Foods. To that date, the Council had spent \$56,752.57 in bringing the matter to the Magistrates' Court.

Despite the City of Greater Dandenong's assertion that its actions were primarily motivated by a concern for public safety, Mr Bosman told the Committee the reason for withdrawing all charges was due to the potential cost to ratepayers. He said:

It is important to stress that the charges for 48 breaches of the Food Act brought against I Cook Foods on 14 June were not withdrawn because council considered the charges to be without foundation or because it was doubtful of its prospects for success in prosecuting the case, but rather because pursuing charges of those breaches through the various court levels, including courts of appeal, could have resulted in legal costs to council in the order of up to \$1.2 million. To pursue breaches of the Food Act prosecution of a business which was by then in compliance with the Food Act was not considered to be prudent use of the public purse. The potential cost to ratepayers was the sole reason for the charges being withdrawn.⁴⁶

When asked by the Committee what had changed at the Council in relation to a litigation policy, City of Greater Dandenong CEO, Mr John Bennie stated:

... We have not done any work on a litigation policy per se, but we accept that that is something that we do need to be looking at.⁴⁷

⁴⁴ Mr Jody Bosman, *Transcript of evidence*, p. 6.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ Mr John Bennie, Chief Executive Officer, City of Greater Dandenong, public hearing, Melbourne, 24 June 2020, *Transcript of evidence*, p. 35.

FINDING 10: The absence of a litigation policy or any clear framework for balancing competing priorities of public safety and public expenditure at the City of Greater Dandenong is of concern.

3.4 Allegation of planted evidence

At a public hearing, Mr Cook made a serious allegation that Ms Garlick, an Environmental Health Officer at the City of Greater Dandenong, had planted a slug during an inspection of the I Cook Foods premises. The presence of a slug was the basis for two of the 48 charges brought against I Cook Foods by the Council.⁴⁸

Mr Cook alleged:

The slug was not the worst example of the damaging criminal behaviour which occurred, but it seems to have been the easiest for people to remember—so let us start there. For safety reasons, I Cook Foods has a number of security cameras around our premises. These cameras were filming when City of Greater Dandenong inspector Elizabeth Garlick first came to our business. It seems Inspector Garlick was not aware that these cameras were on or that they were recording. These cameras, including her own body camera, recorded Inspector Garlick repeatedly planting and falsifying evidence. In one part of the recording she can be seen walking into the back left-hand corner of the I Cook Foods premises and spending 17 seconds hunched in that corner. Throughout the day, video shows that that area had been walked through by various staff 64 different times. No-one saw a slug. After 17 seconds crouched in the corner, Inspector Garlick rose to her feet and declared that she had found a slug at I Cook Foods. If this was true, I would have been the first to admit this and apologise. But it was not true.⁴⁹

The Committee was provided with evidence that, Mr Cook claims, demonstrated the alleged wrongdoing. A copy of this evidence can be viewed in Appendix 11.

Mr Cook informed the Committee that days before the inspection conducted by Ms Garlick, Hayes Pest Control conducted a site inspection. Mr Cook explained:

Hayes Pest Control had conducted a site inspection just days before, and they had found no evidence of slug activity. A subsequent investigation by Hayes Pest Control found that there was no credibility to the claims that a slug had entered the facility or made it to this location unassisted. Dr Michael Nash, PhD, is a slug expert. In his separate report he points out that this particular slug is not found in the area and is nocturnal. It should have been asleep at the time it was meant to be crawling into my factory.⁵⁰

⁴⁸ Mr Jody Bosman, *Transcript of evidence*, p. 6.

⁴⁹ Mr Ian Cook, *Transcript of evidence*, p. 2.

⁵⁰ *Ibid.*

In light of Mr Cook's allegation, the Committee asked Ms Garlick at a public hearing whether she planted the slug. She said 'No, I did not.'⁵¹

The Committee does not consider it is in a position nor equipped with the necessary expertise to determine how the slug came to be present in the I Cook Foods kitchen.

Further, the Committee notes that Victoria Police is currently undertaking an investigation assessment of a large volume of evidence provided to it in relation to the closure of I Cook Foods.⁵²

3.5 The existence of a Conflict of Interest

The Committee heard evidence that at 9.00 p.m. on 21 February 2019, Council CEO John Bennie called the Acting Chief Health Officer, Prof. Brett Sutton, to discuss signing the Closure Order for the I Cook Foods premises. During this telephone call, Mr Bennie informed Prof. Sutton he was not able to sign the Closure Order due to a conflict of interest.

Mr Bennie, at a public hearing, described his conflict of interest as follows:

...the nature of the conflict is that council on the one hand is a regulator and council on the other hand is a service planner and service provider, and in relation to this broader matter council had a responsibility in both areas. As the CEO, if I am involved on the board of Community Chef, I need to be extremely mindful of the matters in relation to regulation. So my conflict of interest, which I continually declared in council, was that I was on their behalf on council and, as a part owner of Community Chef, on their behalf on the board of Community Chef and that I should not then have any role to play in relation to the regulatory aspect of all of this—and I did not.⁵³

Mr Bennie also provided the Committee with a copy of his standing conflict of interest declaration with Community Chef. This document can be found in Appendix 12.

At a public hearing, Prof. Sutton conveyed his view that an ownership structure whereby a shareholder also regulated a competing food production business was potentially problematic from a public health point of view.⁵⁴ Further, when discussing this occurrence, Prof. Sutton said:

I think it became problematic in terms of the closure on that night. It led to delays in that coming into effect, and it took some efforts for my department to contact him, my team to contact council, and to make him available to even have the conversation. So I think it was problematic in that regard.

⁵¹ Ms Elizabeth Garlick, Environmental Health Officer, City of Greater Dandenong, public hearing, Melbourne, 24 June 2020, *Transcript of evidence*, p. 10.

⁵² Office of the Chief Commissioner, Victoria Police, correspondence, 24 June 2020.

⁵³ Mr John Bennie, *Transcript of evidence*, p.27.

⁵⁴ Prof. Brett Sutton, *Transcript of evidence*, p 81.

On the issue of the conflict within council, having a part share and also being potentially responsible for a closure, I guess that is a question for the department at large and the minister as to whether the Food Act needs amendment.⁵⁵

FINDING 11: It is problematic for the chief executive officer of a local council to have conflicting interests within the same industry they are empowered to regulate.

RECOMMENDATION 7: That the Government reviews the management of conflicts of interest where a local council is a shareholder in a business that it is authorised to regulate, and determines whether corresponding amendments to the *Food Act 1984* are required.

3.6 Community Chef

As part of the Inquiry, the Committee considered the allegation made by Mr Cook that I Cook Foods was targeted by the Council and DHHS in order to effect its closure to benefit another food production business, Community Chef.⁵⁶

The Committee was informed that Community Chef was created in collaboration with 14 Victorian local councils, with substantial funding support from both the Commonwealth and State Governments. A breakdown of the government funding provided to Community Chef can be found in Appendix 13.

The Committee notes Community Chef CEO, Mr Joe Ciccarone's comments that Community Chef is a social enterprise with a business model that places purpose before profit in the delivery of an essential service.⁵⁷ Speaking to this point, Mr Ciccarone told the Committee:

Any sort of surplus goes back into providing a social dividend. Over the years we have done that in various ways, but typically via donations to Foodbank Victoria.⁵⁸

The Committee also had access to and reviewed a *Community Chef—Strategy* draft report from May 2018 (the draft strategy), prepared by Pitcher Partners for DHHS. The draft strategy provides an account of the financial position of Community Chef to May 2018, and gives an outlook for 2018-19 and 2019-20.

The draft strategy shows that Community Chef had been operating at a loss since 2016,⁵⁹ compounded year-on-year by a continuing decline in council spend, which forms the majority of Community Chef's total revenue base. Further, that the inability

⁵⁵ Ibid., p 75.

⁵⁶ Mr Ian Cook, *Transcript of evidence*, pp. 2-3.

⁵⁷ Mr Joe Ciccarone, Chief Executive Officer, Community Chef, public hearing, Melbourne, 24 June 2020, *Transcript of evidence*, p. 51.

⁵⁸ Ibid., p. 61.

⁵⁹ Pitcher Partners, *Community Chef—Strategy: DRAFT*, report for the Department of Health and Human Services, Melbourne, 2018, p. 16.

of Community Chef to generate additional revenue from non-council sources in 2016-17 and 2017-to date (May 2018) made for 'significant uncertainty' in relation to its ability to generate budgeted revenue in 2018-19 and 2019-20.⁶⁰

In relation to other revenue opportunities and strategies not reliant on declining council revenue identified by Community Chef, the draft strategy noted:

This indicates the difficulty for the business in expanding its revenue base from councils to more commercial operations, as these additional strategies for future growth still appear to be largely unsupported or unconfirmed.

More reliance is being placed on the DHHS health contracts in future budgets, although these contracts are not formally agreed.⁶¹

The Committee was provided with Community Chef's board minutes from 22 February 2019, the day I Cook Foods was closed. The documents show that Community Chef contacted councils, and other customers, to advise them that Community Chef could provide assistance where I Cook Foods was no longer able to.

The board minutes can be viewed in Appendix 14.

In response to questioning at a public hearing, Mr Ciccarone, whose decision it was to contact customers affected by I Cook Foods' closure, explained:

That was my decision; I made that with my team. So the chronology of the events on that day was that we were unaware that it was I Cook. We started receiving calls from our own customer councils asking what was going on. We had not heard the reports. As the day unfolded the matter became public knowledge, and only at that point did John Bennie then divulge the detail, and none of it was further or in addition to matters or information that was already in the public arena.⁶²

Once aware that Community Chef had contacted clients of I Cook Foods, the Committee raised questions about the impact the closure of I Cook Foods had on Community Chef's business. Mr Ciccarone, explained that the ongoing benefit had been marginal:

When I Cook Foods was originally closed we offered assistance to all businesses and councils that were impacted on the basis that we did not want any vulnerable people to go without food. So, for example, on that weekend we had one particular council scrambling—they did not have a backup. Myself and my team worked over the weekend to ensure we could get meals into their coldroom by Sunday so that old people and vulnerable people did not miss out for their first delivery on Monday. The ongoing benefit of that has been marginal. We only provided to many of those businesses and councils on a short-term basis whilst they organised other arrangements. In many cases, in terms of councils, they went to tender. We obviously put in bids for each of those, and the only tender that we secured was that for Glen Eira.⁶³

⁶⁰ Ibid., p. 17.

⁶¹ Ibid., p. 18.

⁶² Mr Joe Ciccarone, *Transcript of evidence*, p. 56.

⁶³ Ibid., p. 52.

Mr Ciccarone further informed the Committee that Community Chef has continued to supply two organisations that were previously supplied by I Cook Foods. He stated:

One was Glen Eira, and we secured them through an open tender process. We did put in bids for many of their other council customers that went to tender and were not successful. Further, there is an aged-care facility in Rosebud that have continued supply from Community Chef. The further information there is that we already had an established supply contract in place for that organisation, which is Mercy Health.⁶⁴

FINDING 12: While Community Chef did gain additional business following the closure of I Cook Foods Pty Ltd, the Committee could not determine if this was directly due to the position held by the Chief Executive Officer (CEO) of the City of Greater Dandenong on the Community Chef Board, or any untoward behaviour by the CEO or the City of Greater Dandenong, Community Chef or the Department of Health and Human Services.

3.7 Classification system for businesses serving vulnerable persons

The Committee was informed that I Cook Foods was registered as a Category 2A food business by the Council at the time of its closure.⁶⁵

Section 35 of the Food Act empowers local councils to be the registration authority for food premises within their municipality. The Committee notes that a food premises registration is renewed yearly at which point it is registered under one of four categories.

Dr Bone explained the structure of classifications at a public hearing. She said:

Yes, so perhaps I can classify the class 1, class 2 issue, first of all. A class 1 premises—this is defined in the Food Act, so it is legislated—supplies potentially hazardous food to vulnerable people. It does not mean that it needs to be directly supplied, as was intimated at the hearing on 17 June. It is just that you are supplying food that finally gets to vulnerable people—so that would be hospitals, aged-care facilities or a caterer like I Cook Foods. A class 2 premises is somebody who provides potentially hazardous food to the general population—so that can be a cafe, a restaurant, a bed and breakfast or something like that. A class 1 premises must have an independent audit and must have a council inspection annually. A class 2 premises that has an independent food safety program must have a council assessment, which is essentially an inspection annually, and also a third-party audit.⁶⁶

⁶⁴ Ibid., p. 55.

⁶⁵ Mr Ian Cook, *Transcript of evidence*, pp. 15, 20.

⁶⁶ Dr Angie Bone, *Transcript of evidence*, p. 87.

At a public hearing, the Committee asked Mr Cook about the classification of I Cook Foods. Mr Cook explained that the City of Greater Dandenong registered I Cook Foods with a classification that is not in the Act. He said:

We do not get to choose the classification, the classification is chosen by the council. So Leanne Johnson, who is the woman we are talking about, issued our registration certificate from the year before in the June—because it goes June to June—as us being a class 2a. What Dandenong did was they changed their classifications, so instead of having class 1 and 2 they said, ‘Well, we have some operators that are selling to vulnerable groups, but they are also selling to others, so they are not really a class 1’. Because technically for class 1 you have got to be directly serving hospitals or children—the vulnerable—directly. We do not do that; we sell to people who serve it to them. So what they decided was they were going to make their own classification of class 2a, which meant that we were up there with class 1.⁶⁷

The Committee was informed that sometime between 26 March 2010 and 10 October 2011 I Cook Foods’ classification changed from a Class 1 premises to a Class 2 premises. Further, the Committee notes that I Cook Foods queried the change of classification with the Council in 2011 and again in 2015.⁶⁸

The audit report found that I Cook Foods was incorrectly classified as a Class 2 premises due to the City of Greater Dandenong’s erroneous interpretation of the legislative definition of a Class 1 premises. The report states:

The classification of iCook (sic) as a Class 2 premises was not in accordance with relevant legislation. This incorrect classification had no material affect on the frequency of Council’s inspections of iCook (sic), but did affect the level of oversight by DHHS approved audits. It also appeared that Council approached its regulatory duties in respect of Class 1 premises more stringently than it approached Class 2 premises.⁶⁹

At a public hearing, Dr Bone noted that the Council is responsible for ensuring what is occurring in the premises is consistent with audits. She said:

Councils should have been doing an inspection, and it is their responsibility also to look at the audit report and feel comfortable and confident that the audit report is representing what is actually going on in the premises.⁷⁰

In addition to the misclassification of I Cook Foods as Class 2, the independent audit report also found that the Council had introduced two additional ‘risk levels’ of 2A and 2B. I Cook Foods was re-classified to a 2A premises under this scheme in August 2017 in the ‘[hope] that separation into the new class could result in “more specific food trading

⁶⁷ Mr Ian Cook, *Transcript of evidence*, p. 20.

⁶⁸ Maddocks Lawyers, ‘Investigation Report’, *Independent investigation into Council’s regulation of iCook (sic)*, p. 8.

⁶⁹ Maddocks Lawyers, ‘Advice’, *Independent investigation into Council’s regulation of iCook (sic)*, p. 2.

⁷⁰ Dr Angie Bone, *Transcript of evidence*, p. 87.

regulatory assistance, information and business promotion”⁷¹. The audit report noted that the 2A and 2B classifications did not reflect the statutory classification categories under the Food Act and recommended:

If Council still has classes 2A and 2B in its classification framework, we recommend finding out why the addition of these sub classes was deemed to be necessary, in circumstances where they do not reflect the legislative scheme. Any purported benefit should be weighed against the risk that these subclassifications reduce clarity for both EHOs and businesses around their obligations and the assessment of risk.⁷²

The audit report found that the lack of additional monitoring due to the incorrect classification of I Cook Foods cannot be ruled out as a contributing factor to the Listeria event.

FINDING 13: The classification of I Cook Foods Pty Ltd as a Category 2A business was problematic as the classification is not recognised under the *Food Act 1984* and it enabled the business to operate in a high-risk area of service without the required regulatory oversight.

FINDING 14: The City of Greater Dandenong failed to review annual food safety audits of I Cook Foods Pty Ltd to ensure that its classification accurately represented the practices of the business.

RECOMMENDATION 8: That the City of Greater Dandenong undertake the corrective actions relating to classifications of premises as outlined in the audit report, *Independent investigation into Council's regulation of iCook (sic)*, including:

- conducting an audit of the classification of other food premises which Council regulates
- reviewing and considering the rationale and risks associated with the additional sub-classifications of 2A and 2B, as introduced by the Council
- reviewing the registration renewal process.

3.8 Ombudsman's investigation

On 9 May 2019 the Council referred allegations of wrongdoing made by Ms Rogerson to the Independent Broad-Based Anti-Corruption Commission (IBAC) for investigation. IBAC referred the matter to the Victorian Ombudsman for investigation as the allegations did not fall within the meaning of a protected disclosure complaint.

⁷¹ Maddocks Lawyers, 'Advice', *Independent investigation into Council's regulation of iCook (sic)*, p. 8.

⁷² Ibid.

At a public hearing, Mr Bennie told the Committee that, in his own words, the Victorian Ombudsman had ‘cleared’ the Council of wrongdoing in this matter. He said:

Council fully cooperated with the Victorian Ombudsman’s inquiry into this matter and was pleased to be cleared of any wrongdoing.⁷³

The Committee notes that correspondence from the Office of the Ombudsman shows that the investigation did not proceed due to a lack of substantial evidence, not that the Council was cleared of wrongdoing.

A copy of the Ombudsman’s correspondence with Ms Rogerson and the Council can be found in Appendix 15.

FINDING 15: The Ombudsman did not conduct an investigation into Ms Rogerson’s allegations on the basis that there was insufficient evidence to do so. This does not mean the Ombudsman was satisfied there was no wrongdoing by the City of Greater Dandenong.

3.9 Provisions of the *Food Act 1984*

The Committee was provided with evidence that highlighted many outdated provisions in the *Food Act 1984* that contributed to difficulties during the investigation and eventual cessation of trading by I Cook Foods. Amendments to modernise the *Food Act* (or relevant regulations) should address the following:

- the format and manner in which a report is prepared to inform the closure of a premises
- updating communication and transmission of orders requirements
- empowering the Secretary of DHHS to act as the regulator of food safety management
- empowering DHHS with performance management and supervisory functions and powers
- establishing a process for the review of regulations and their efficacy.

The Committee heard from Mr Cook at a public hearing that I Cook Foods was not supplied with a copy of the report that informed the Council’s and Department’s decision to issue the Closure Order.

⁷³ Mr John Bennie, *Transcript of evidence*, p. 5.

The Committee asked Dr Bone whether the report sought by Mr Cook existed. Dr Bone explained that the Food Act does not specify the format or nature of the report that is required. She said:

No, there is no one report, and I think that is something that people keep looking for and asking for: 'Is there one standalone bound report?'. The reality is in something that is very, very fast moving, as this was, and urgent, it is a number of different reports that are taken collectively, and the Food Act does not specify how that report needs to be given. Bearing in mind it was 1984, it probably would not have mentioned email, for example, so that is the summary answer.⁷⁴

The Committee was informed that all clients of I Cook Foods were emailed by the Department on the evening of 21 February 2019 to notify them of the closure of I Cook Foods.⁷⁵ The Committee learnt that this was conducted well before I Cook Foods had been formally notified of the Closure Order. Dr Bone explained this at a public hearing, she said:

So it was the evening of the 21st when all of the decisions were being made. There were some letters that were sent out to all of the Meals on Wheels and the private hospitals and the councils.⁷⁶

The Committee finds it unacceptable that the Food Act prevents a business from being notified electronically of its closure before its client base is contacted.

FINDING 16: It is unacceptable and improper that clients of I Cook Foods Pty Ltd were notified of its closure prior to the business being closed.

RECOMMENDATION 9: That the Department of Health and Human Services amends its notification process to prevent clients from being notified of a closure before a business has been informed that a closure order is to be served on it.

In the same regard, the Committee learnt that a closure order can only be served in person under the Act.⁷⁷ Documents provided to the Committee demonstrate that DHHS considered the option of having Victoria Police serve the Closure Order if the Council was unable to do so in person.

The Committee believes that for these reasons, the Food Act needs to be modernised to provide for the electronic transmission and publication of a closure order.

⁷⁴ Dr Angie Bone, *Transcript of evidence*, p. 78.

⁷⁵ A DHHS email of 21 February 2019 summarising the situation and actions to be taken, including communication with I Cook Foods clients, can be found in at Appendix 16.

⁷⁶ *Ibid.*, p. 74.

⁷⁷ *Food Act 1984 (Vic)* s 19(5).

RECOMMENDATION 10: That the *Food Act 1984* be amended to allow for the addition of electronic transmission and publication of closure orders.

RECOMMENDATION 11: That the *Food Act 1984* be amended to align with developments in food safety regulation. In doing so the Government should consider the recommendations of the Victorian Competition and Efficiency Commission's Report, *Simplifying the Menu: Food Regulation in Victoria*, September 2007.

RECOMMENDATION 12: That the *Food Act 1984* be amended to consolidate reporting requirements to formalise an investigation that leads to the closure of a premises.

RECOMMENDATION 13: That the *Food Act 1984* be amended to reflect the modernisation of communication and reporting to support the timely completion of reporting.

3.10 Conclusion

In the course of this Inquiry the Committee heard many allegations and counter allegations in relation to the reasons and motivations for the closure of I Cook Foods.

The accusation that evidence was planted by a City of Greater Dandenong Environmental Health Officer as part of a broader conspiracy against I Cook Foods is serious indeed. The Committee was not in a position to form a view in relation to this accusation and notes that it was refuted by the officer involved. Further, the Committee notes that the allegations of conspiracy have been refuted by representatives of the Council, Department and Community Chef.

The Committee was also informed that a substantial brief of evidence in relation to the I Cook Foods events has been provided to Victoria Police.⁷⁸ The Committee trusts that this and other matters will be pursued by Victoria Police as part of their usual processes.

Notwithstanding that the Closure Order imposed on I Cook Foods was issued validly and for a proper purpose in accordance with the Food Act, the Committee is of the view there were significant shortcomings in the manner in which I Cook Foods was dealt with by food safety regulators. I Cook Foods was not subject to a sound and proper process, or fair and consistent treatment.

The Committee believes that on the weight of evidence presented to it, I Cook Foods was not properly dealt with by the City of Greater Dandenong. This was further

⁷⁸ Office of the Chief Commissioner, correspondence, 24 June 2020.

complicated by the absence of a suitable framework to guide the Department of Health and Human Services, which resulted in a lack of clarity and consistent process by the Department in its communication and reporting in the investigation and closure of I Cook Foods.

The Committee also believes that changes to the *Food Act 1984* would be beneficial in order to ensure that certain processes are consistently regulated and decrease the likelihood of situations such as this one arising in the future.

Appendix 1

Public Hearings

Wednesday, 24 June 2020

Committee Hearing Room
55 St Andrews Place, East Melbourne

Name	Title	Organisation
Mr John Bennie	Chief Executive Officer	City of Greater Dandenong
Mr Jody Bosman	Director, City Planning, Design and Amenity	
Ms Mandy Gatliff	Manager, Community Care	
Ms Elizabeth Garlick	Environmental Health Officer	
Ms Leanne Johnson	Coordinator, Public Health	
Professor Ben Howden	Director	Microbiological Diagnostic Unit Public Health Laboratory
Dr Susan Ballard	Principal Scientist	
Mr Joe Ciccarone*	Chief Executive Officer	Community Chef
Adjunct Professor Mr Hayden Raysmith AM*	Deputy Chair, Board of Community Chef	
Professor Brett Sutton	Chief Health Officer	Department of Health and Human Services
Dr Angie Bone	Deputy Chief Health Officer	
Mr Greg Stenton	Deputy Secretary, Corporate Services	
Mr Deon Mahoney	Head of Food Safety	Produce Marketing Association Australian New Zealand

Wednesday, 17 June 2020

Committee Hearing Room
55 St Andrews Place, East Melbourne

Name	Title	Organisation
Mr Ian Cook	Director	I Cook Foods Pty Ltd
Mr Paul Brady	Former Victoria Police Detective Sergeant	
Ms Kim Rogerson	Environmental Health Officer	—

* Appeared by audio-visual link.

Appendix 2
***Independent investigation into
Council's regulation of iCook (sic)***

A2

Advice

To

Confidential & Privileged

[REDACTED]
Manager People and Procurement
City of Greater Dandenong
[REDACTED]

Date

20 May 2019

Subject

Independent investigation into Council's regulation of iCook

Instructions

On 31 January 2019, the Department of Health and Human Services (DHHS) notified the City of Greater Dandenong (Council) that an elderly patient at Knox Hospital had been diagnosed with listeria. DHHS requested that Council conduct bacteria sampling and testing at the premises of the Dandenong South based food manufacturer, iCook Foods Pty Ltd (iCook).

Council conducted the testing as requested, and identified that samples taken from iCook tested positive for listeria. Council also identified several instances of non-compliance with food handling standards.

On 19 February 2019, DHHS advised Council that the person who had been diagnosed with listeria had passed away.

You instructed us to engage an independent investigation to conduct a factual investigation into Council's monitoring, regulation and classification of iCook (Investigation).

The Investigation was commissioned to provide information to enable us to provide advice to Council about its regulatory processes regarding iCook, specifically:

- whether Council had complied with its regulatory functions under the *Food Act 1984* (Vic) (Food Act);
- the process followed by Council in its classification of iCook under the Food Act classification scheme;
- the manner in which Council undertook its inspections of iCook;
- how Council responded to concerns or complaints received about iCook;
- whether Council's actions had any material effect on the food handling and/or safety obligations to be met by iCook; and
- whether Council needs to take any immediate steps to rectify any issues identified regarding its regulation of iCook.

Summary of findings and advice

Below is a summary of the findings and our advice. Please read it in conjunction with the detailed advice that follows.

The Investigation found that:

- the classification of iCook as a Class 2 premises was not in accordance with relevant legislation. This incorrect classification had no material affect on the frequency of Council's inspections of iCook, but did affect the level of oversight by DHHS approved audits. It also appeared that Council approached its regulatory duties in respect of Class 1 premises more stringently than it approached Class 2 premises;
- there was a lack of detailed, coherent documentation to support the inspections of iCook's premises conducted by Council. While Council has now implemented a new scoring regime, the previous rating system was applied to iCook in a way that was not instructive. This was because there was no clear relationship between the issues identified and the overall rating given to iCook. One of the reasons this is problematic is because the rating a food premises receives has the potential to affect the frequency of inspections; and
- there were 13 complaints or concerns raised in respect of iCook between 2016 and 2018. While these were responded to promptly by Council, they were actioned in a way that placed responsibility onto iCook for identifying and documenting necessary remedial action, tasks that would reasonably be expected to be performed by Council in its position as the registration authority.

We recommend that Council carefully review the written findings from the Investigation and the documents referred to therein (**Attachment 2** to this advice).

Generally, Council needs to now look more broadly at the usual practices of Environmental Health Officers in performing their regulatory function in order to determine whether the facts in respect of iCook, as found, reflect a significant departure from Council's usual practice more generally. This will allow Council to make an assessment of whether performance management of individuals or a more systemic response (or both), is required.

Specifically, we recommend that Council:

- conduct an audit of the classification of other food premises;
 - review and consider the rationale and risks associated with the additional sub-classifications of 2A and 2B, as introduced by Council;
 - review the registration renewal process;
 - review the supporting documentation, training and expectations for Council inspections of food premises to ensure it is robust;
 - provide formal training in appropriate record keeping; and
 - identify any deficiencies in record keeping and institute a plan to remedy those identified.
-

Contact

Our Ref: CED:EZD:7840624

Detailed analysis



Background

Partner



1. On 27 January 2019, DHHS notified Council that it had received a request from the Cook's facility in Dandenong South, Victoria, to be inspected under the Food Safety Act 2014 (Vic) (FSA) in relation to the facility's compliance with food handling standards for Cook.

2. Council conducted the testing and identified the Cook facility. Council also identified the facility's compliance with food handling standards for Cook.

3. On 19 February 2019, DHHS advised Council that the patient who had contracted listeria had passed away.

4. Council has been the entity responsible for regulating Cook's compliance with the relevant food safety legislation for several years. Therefore, it was necessary for Council to identify the actions taken and processes followed in relation to its monitoring, regulation and classification of Cook, so it can better understand the circumstances that gave rise to Cook testing positive for listeria monocytogenes in February 2019 (Listeria Event).

5. On 27 March 2019, Madbooks engaged Catherine Symons (a partner at Victoria Bar) to conduct a factual investigation into Council's regulatory practices concerning Cook.

6. On 14 May 2019, Ms Symons provided Madbooks with the written findings of the investigation (Report).

7. On 16 May 2019, Ms Symons provided Madbooks with a summary table listing the key documents referred to in the Report along with a completion of these key documents.

Confidentiality and Privilege

8. A copy of the Report is Attachment 2 to this advice, with copies of the key documents referred to in the Report.

9. The Report is covered by client legal privilege and we recommend that its circulation be limited only to those people within Council who are required to make decisions about, or otherwise be aware of, the issues identified during the investigation. Council employees who are provided with copies of the Report (and this advice) should be instructed that it is highly confidential and not to discuss it with, or provide a copy of it to, any other party.

10. We anticipate that distribution of the Report will not be required beyond the City of Greater Dandenong - Food Safety Incident Steering Committee. It should not be provided to any other party outside of Council without Council first discussing it with us. The Report also contains personal information as defined by the Privacy and Data Protection Act 2014 (Vic) and so should not be distributed or used beyond what is absolutely necessary.

11. If, after considering the Report and this advice, Council decides to provide the Report to an external body such as DHHS, this may waive client legal privilege over the Report. If this is something Council is considering, we encourage you to seek our advice first.

Qualifications and assumptions

12. The purpose of the investigation was to find out what happened in relation to Council's regulation of Cook, whether this was compliant with the relevant legislation and identify any

Appendix 3

Closure Order

A3

CLOSURE ORDER UNDER SECTION 19 OF THE FOOD ACT 1984

I, Dr Brett Sutton, Acting Chief Health Officer, Department of Health and Human Services and delegate of the Secretary to the Department of Health and Human Services for the purposes of Section 19 of the *Food Act 1984*, am satisfied from the report of an authorized officer of the Department's Food Safety Unit that -

in relation to the food premises known as iCook Foods and situated at 2/12 Zenith Road, Dandenong South, Victoria 3175 ("**the food premises**"), food being prepared, sold or otherwise handled at this food premises is unsafe or unsuitable.

Pursuant to Section 19(2) of the *Food Act 1984* I HEREBY ORDER AND DIRECT THAT within 14 days of the date of the serving of this notice:

- a) the food premises must be put into a clean and sanitary condition or be altered or improved to the satisfaction of an authorized officer; and
- b) specified steps must be taken to ensure that food prepared, sold or otherwise handled at the food premises is safe and suitable.

Pursuant to Section 19(3) of the *Food Act 1984* I HEREBY ORDER AND DIRECT, EFFECTIVE IMMEDIATELY ON THE SERVICE OF THIS NOTICE, THAT:

- a) the food premises must not be kept or used for the sale, or the handling for sale, of any food; and
- b) the food premises must not be kept or used for the preparation of food.

Further, pursuant to section 19(2)(b) of the *Food Act 1984* the specified steps that must be taken to ensure that food prepared, sold or otherwise handled at the food premises is safe and suitable are as follows:

- a) all food with an extended shelf life manufactured since and including 13 January 2019 to date be destroyed; and
- b) all short shelf life food manufactured since and including 13 January 2019 to date be destroyed.
- c) iCook Foods provides to the Food Safety Unit, Department of Health and Human Services, evidence to support the validation of the clean down of the premises and equipment conducted on 20 February 2019 in line with Australian Standard 4.3.2 - Guidelines for management of Listeria.
- d) iCook Foods provides to the Food Safety Unit, Department of Health and Human Services a sampling plan that accords with Standard 4.3.2 and its application to the company's production processes. To clarify, each production line will require appropriate sampling at key risk areas (eg. machinery that requires dismantling such as slicers).
- e) iCook Foods provides to the Food Safety Unit, Department of Health and Human Services, evidence that it has submitted all samples to a NATA accredited laboratory for testing for the presence of Listeria including *Listeria monocytogenes*.
- f) iCook Foods provides to the Food Safety Unit, Department of Health and Human Services, evidence and that any positive detections of *Listeria monocytogenes* isolates are sent to the Microbiological Diagnostic Unit Public Health Laboratory for genotyping.
- g) iCook Foods provides to the Food Safety Unit, Department of Health and Human Services, a copy of an action plan on listeria management, including monitoring (which will need to be incorporated into the Food Safety Program).

I ALSO FURTHER DIRECT, pursuant to Section 19(4)(a)(i) of the **Food Act 1984** that a copy of this Order be affixed to a conspicuous part of the food premises so that it can be read by a member of the public from outside the premises.

This Order remains in force until it is revoked by me as Acting Chief Health Officer, under section 19(6) of the *Food Act 1984*. This Order will be revoked when I am satisfied that its conditions have been complied with.

DATED this **21st February 2019**

Issued and signed

A handwritten signature in black ink, appearing to read 'Brett Sutton', written in a cursive style.

Dr Brett Sutton

Acting Chief Health Officer

NOTE:

1. Any person who contravenes or fails to comply with an Order made under Section 19 of the Food Act 1984 is guilty of an offence under Section 19(7) of the Act.
2. Any person who is aggrieved by this Order may appeal to the Magistrates' Court within 21 days after the Order is made, under Section 19BA of the Food Act 1984.

Appendix 4
**City of Greater Dandenong
photos and file notes from
18 to 22 February 2019**

A4

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 18/02/2019 Inspection Time: 11:50 am



EG23: Photograph of cleaning occurring in the Main Food Preparation Area.
Photograph: Officer E. Garlick. Date: 18 February 2019

A4

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 18/02/2019 Inspection Time: 11:50 am



A4

EG11: Photograph of Main Food Preparation Area with food handling and cleaning activities occurring.
Photograph: Officer E. Garlick. Date: 18 February 2019

Appendix 4 City of Greater Dandenong photos and file notes from 18 to 22 February 2019

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 18/02/2019 Inspection Time: 11:50 am



EG45: Photograph of a live slug on the floor of the food and equipment storage area within the Main Food Preparation Area.
Photograph: Officer E. Garlick. Date: 18 February 2019

A4

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 18/02/2019 Inspection Time: 11:50 am



EG84: Photograph of hand wash basin with vacuum sealing machine in front of it at mincing station in Plating/Packing Area.
Photograph: Officer E. Garlick. Date: 18 February 2019

A4

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 18/02/2019 Inspection Time: 11:50 am



EG36: Photograph of bench and double bowl sink within Scullery Area.
Photograph: Officer E. Garlick. Date: 18 February 2019

A4

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 20/02/2019 Inspection Time: 11:15 am



A4

EG235: Photograph of equipment seized at the time of the inspection. Photograph taken in Mr B Cook's office.
Photograph: Officer E. Garlick. Date: 20 February 2019

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 20/02/2019 Inspection Time: 11:15 am



EG193: Photograph of unclean mandolin being stored in the Hospital Food Preparation Area.
Photograph: Officer E. Garlick. Date: 20 February 2019

A4

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 20/02/2019 Inspection Time: 3:20 pm



A4

EG244: Photograph of oven being used for pasteurisation containing food products that are part-way through the process.
Photograph: Officer E. Garlick. Date: 20 February 2019

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 20/02/2019 Inspection Time: 11:15 am



EG113: Photograph of Main Food Preparation Area as taken from the Butcher Area.
Photograph: Officer E. Garlick. Date: 20 February 2019

A4

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 20/02/2019 Inspection Time: 11:15 am



A4

EG211: Photograph of staff pressure washing the flooring in the Main Food Preparation Area in close proximity to drying food handling equipment. Photograph: Officer E. Garlick. Date: 20 February 2019

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 20/02/2019 Inspection Time: 3:20 pm



EG281: Photograph of build-up of debris and residue on bench surface beneath bread crate in Scullery Area.
Photograph: Officer E. Garlick. Date: 20 February 2019

A4

Premises: I Cook Foods

Address: 2/12 Zenith Road, Dandenong South

Inspection Date: 20/02/2019 Inspection Time: 3:20 pm



A4

EG270: Photograph of broken and damaged tub on a trolley being used within the Main Food Preparation Area.
Photograph: Officer E. Garlick. Date: 20 February 2019

Appendix 5
**Department of Health and Human
Services Inspection Report from
22 February 2019**

A5

Site Visit Observation Report

22.02.2019

Visit to:	iCook Foods, 2/12 Zenith Road, Dandenong South, Victoria 3175
Time/Date:	1.20pm to 5.00pm / 22 nd February 2019
Authorised Officers Present:	<p>██████████ Senior Food Safety Officer DHHS</p> <p>██████████ Senior Food Safety Officer DHHS</p> <p>Elizabeth Garlick, Environmental Health Officer, City of Greater Dandenong Council</p> <p>Gareth Little Hales, Environmental Health Officer, City of Greater Dandenong Council</p>
iCook Representatives Present:	<p>Ben Cook, General Manager (Production and Logistics)</p> <p>██████████ Production – Head Chef</p>
iCook Representatives present by telephone at opening and closing meeting:	<p>Ian Cook, Company Director</p> <p>██████████ General Manager (Strategic Direction and Finance)</p>

PURPOSE

This visit followed a closure order by Dr Brett Sutton, Acting Chief Health Officer of Health and Human Services on 21st February 2019.

The purpose of the visit was for the Food Safety Unit to meet with both the food premises management, and also Environmental Health Officers from The City of Greater Dandenong Council in order to gather objective evidence and to support the business in building their action plan to meet the requirements of the order.

THE PREMISES

The iCook business occupies an industrial unit situated in a commercial estate in Dandenong South, and comprises a single ground level facility housing an office suite and an industrial kitchen. The food handling area was presented as a free standing internal construct within a brick warehouse type building. The space between the inner food handling building and the outer brick walls was used for storage, this included storage of various articles of unused equipment and non-food items being stored on racking or on top of the "roof" of the food handling facility.

The interior of the food handling space was divided into three main manufacturing areas; the Kitchen; the Plate Up Room; and the Sandwich Preparation area which was situated towards the centre of the space. Alongside these facilities were a freezer, several cool rooms, and a picking and out-loading area.

The food handling area is well constructed from sandwich panel walls and ceilings, all appeared to be in a good state of repair. At the time of the visit the site had undergone a thorough deep clean by a specialist cleaning contractor, BioSafety Pty Ltd, utilising chlorine dioxide fogging to remove bacteria from the fabric of the production area, as well as from inside the manufacturing machinery and trench style drainage channels. The site was not operational at the time of the visit due to the closure order, and only a few staff were on site, including management and some operators.

The requirements of the order were discussed and clarified during an opening meeting, with specific reference to Listeria Control.

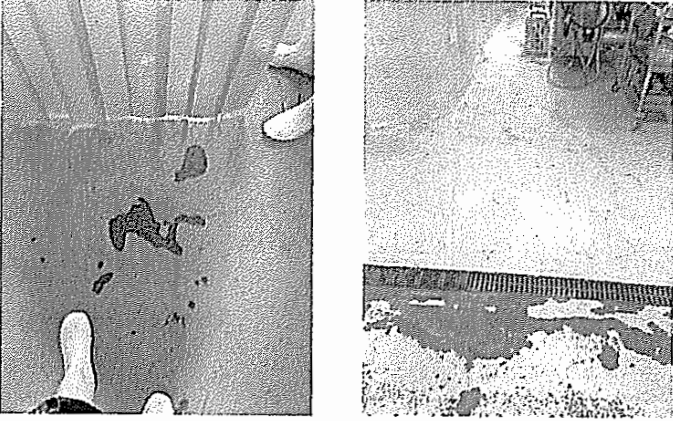
Summary of actions taken by the iCook management prior to the visit:



- Production had ceased.
- A double dose of chemical fogging through the production areas and food processing plant had occurred during the previous day using chlorine dioxide, the work being conducted by BioSafety Pty Ltd.
- Removal of food product was evident at the time of the visit and was ongoing. Three skips of product had already been removed from the site, with further disposal planned.
- The systematic factory cleaning was continuing.

RECORDED OBSERVATIONS AND DISCUSSION POINTS

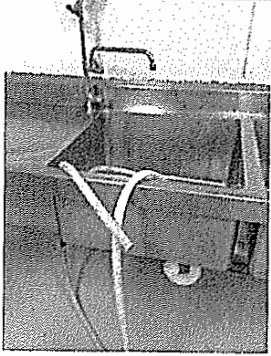
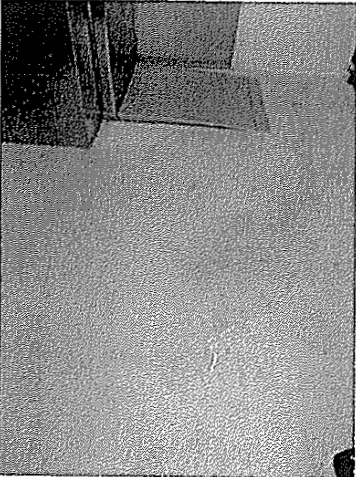
The following table represents a number of the items discussed with Ben Cook and [REDACTED]

The table provides a list of observations regarding specific areas of risk observed during the site visit, the purpose of providing this information is to help inform the business' own risk assessments and corrective action plan.


	Observations and areas of risk discussed	Comments and action taken to date
1	<p>Control of visitors/ deliveries (ie site entry rules)</p> <p>Needs to be formalise and clearly established, including an entry procedure for visitors to the manufacturing area.</p> <p>Some work had been done on this but more is needed</p>	<p>The site has implemented tighter control of delivery people since this incident</p>
2	<p>Floors: cracked/missing epoxy surface throughout the site</p> 	<p>The site has a plan to patch the damaged floor surface.</p>
3	<p>Equipment and Cleaning procedures</p> <p>Some mobile racks were observed with rusty wheels</p> <p>Some shelving had hollow legs with holes, this adds to the risk of not achieving an adequate clean</p> <p>The standard of equipment on site was generally high with regard to hygienic design and ease of cleaning, new equipment observed included a bowl chopper and slicer</p> <p>Discussed the need to dismantle food contact equipment for cleaning (for example: slicer blades)</p> <p>Procedures should reflect the required methodology for cleaning and sanitising</p>	<p>Site was systematically replacing the rusty rack wheels</p> <p>Site had agreed that shelving design was a risk</p> <p>Site was aware that they need to review their cleaning procedures</p> <p>Additional mincers were being ordered for vitamised area for Meat/Vegetable products</p>
4	<p>New equipment</p> <p>Discussed when new equipment comes into the site, and how this could be managed to minimise the risk of contamination , needs to be clearly documents and procedures established</p> <p>Discussed the importance of this as an event and needs to be monitored and thoroughly Cleaning –</p> <p>It should be noted when they consider this in their site traffic risk assessments.</p>	<p>Site understood that this procedure could be improved</p>
5	<p>Fork lifter</p> <p>This was visually dirty in a cleaned room, and the wheels were rusty</p>	<p>Site understood this could be improved</p>

		
6	<p>Planetary Mixer</p> <p>Evidence of rust and deterioration – makes this surface difficult to clean.</p> 	


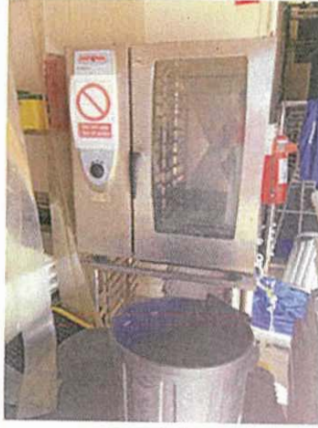
7	<p>Butchery area (chopping and mixing equipment area)</p> <p>Evidence that this is a congested area of food preparation, both raw and cooked foods are processed</p> <p>The sink was reported to be used for numerous purposes, including: equipment washing; bucket filling; sink was also for cleaning vegetables</p> <p>It was also potentially a hand wash as there was signage and a soap dispenser on the wall</p> <p>It was reported that prior to the closure, hoses with spray triggers were used in this area, this can lead to the creation of aerosols that can contribute to cross contamination risk</p>	<p>Site understood the risks in relation to this area.</p> <p>Site was aware that staff were also using this sink for cleaning despite the companies' procedures</p>
8	<p>Pipework and hoses on floor</p> <p>All pipe work to be off the floor to support effective cleaning of the area. Hose lines that trail on the floor can be a listeria cross-contamination point if they also contact food surfaces</p>	<p>Older hoses had been removed – and trigger guns removed from the hoses</p> <p>Site understood that this area could be improved</p>

		
9	<p>Water pooling</p> <p>Water pooling was observed in numerous production areas and in fridges</p> <p>The stainless-steel ramp to the freezer lifted off the floor providing an opportunity for water pooling underneath</p> <p>Water near blast chillers</p> 	<p>The site should review opportunities to actively manage water pooling</p> <p>The site understood this could be improved</p>
10	<p>Chiller: water pooling</p> <p>Trolleys with gastronomie trays were stood in this water, providing a cross contamination source when they are moved across the site</p>	<p>Site understood this could be improved</p>
11	<p>Cleaning equipment</p> <p>The use of sponges and string mops to be reviewed in production rooms.</p> <p>Alternatives could be used to minimise the risk of re-contamination of cleaned surfaces</p>	<p>Site understood this could be improved, they were not aware this was an issue</p>
12	<p>Sandwich Room</p> <p>Room was not in use.</p>	<p>This room was no longer in use due to the order</p>


	Both the room and its plastic strip curtains had been cleaned	It was reported by the site that the business previously used the room for washing raw foods. The site recognised that this practice should not occur again
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13	<p>Cleaning of mats</p> <p>Discussed the inclusion of the floor mats onto the cleaning and sanitising program. Such mats are valuable for health and safety but can harbour listeria and support biofilms over time if not regularly cleaned and sanitised</p>	Site understood this could be improved
14	<p>Consider other ventilation options</p> <p>Removal of the fan in the wash room- was discussed during the site visit.</p> <p>Curtains – are considered to be a risk to be when moving over clean and dirty trolleys coming in to this room</p>	Site understood this could be improved
15	<p>Dishwasher room</p> <p>Discussed the cross-contamination risks in this area due to the cross-over of clean and sanitised equipment through the strip curtains at the single point of entry</p> 	Site understood this could be improved
16	<p>Consider the removal of unnecessary items</p> <p>This includes difficult to clean or deteriorating items such as wooden shelves with laminate surfaces</p>	Note: Tables with exposed chipboard undersides had been removed from sandwich room
17	<p>Segregation of raw and cooked areas to be considered</p> <p>Discussed improving the protection of cooked and ready to eat foods from proximity to raw foods, particularly in high traffic areas</p>	Site understood this could be improved

18	<p>Traffic flow across the site – in terms of people/food/equipment</p> <p>Discussed cross contamination opportunities through movement:</p> <ul style="list-style-type: none"> • Flow of product and people • Raw, work in progress, and cooked - how food is moved across the site – to assess work areas and segregation • Deliveries • Storage areas • Fridges/ Freezers • Preparation areas • Cooking • Cooling • Packing lines • Texture modified area • Order picking area • External area 	Site understood this could be improved
19	<p>Control of Trolleys</p> <p>Discussed movement across the site</p>	Site understood this could be improved
20	<p>Control of materials on site</p> <p>Consider methods to restrict the movement of cardboard boxes throughout the site, ie: bringing external materials across the site is adding to the bacterial load of the environment</p>	Site understood this could be improved
21	<p>Control of waste and bins</p> <p>Discussed traffic flow and bacterial load being introduced by bins that are cleaned outside</p>	Site understood this could be improved
22	<p>Control of plastic trays</p> <p>Discussed the cleaning of trays and tubs, and their movement of across the site</p>	Site understood this could be improved
23	<p>Controls of people and equipment</p> <p>Stop the use of the cleaning room-as the thoroughfare to the external environment</p>	Site understood this could be improved

		
24	<p>Ovens at the back of the Cleaning room</p> <p>This was discussed with the council prior to the visit</p> <p>Removal of ovens from the cleaning storage room – alternative to be found for cooking overnight product on slow cook</p> 	Site understood this could be improved

25	<p>External Area:</p> <p>Bread crates/trays – for return to Goodman Fielder were stacked around the rear of the building against the wall, this limits the access for pest control</p>	Site understood this could be improved
26	<p>Dry storage - Pallet storage</p> <p>Discussed the need to reduce congestion in the storage area and control. Noted they were working on removal of non-necessary items across the site</p>	Site understood this could be improved
27	<p>Trolleys returned from Meals on Wheels</p> <p>Review traffic and bacterial load of the environment from items moving from storage into the production area</p>	Site understood this could be improved

		
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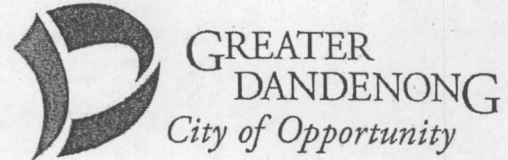
Other aspects of the order discussed while on site	
28	Recommended that they inform the Auditor who was engaged to attend the site on Monday of the Food Act Order in place, if they haven't already.
29	Food Safety Program review was discussed, risk assessments and update will be required and the program needs to be reflective of all processes conducted on site.
30	Batch control and records – were reviewed at this time but was not evident during this visit - the site will need to address this in line with their testing program and traceability
31	Discussed Listeria control plan and testing- they need to provide evidence that they have a sampling plan, detailing the locations of swab points and product sampling plan for each line
32	<p>Discussed that Allergen control was not evident during the site visit and this was not fully explored not the purpose of the visit.</p> <p>There was no evidence of allergen controls in place while on our site visit – in storage and in production</p> <p>Site needs to be familiar with their obligations under their food standards code.</p>
33	<p>Corrective Action Reporting was asked for in relation to listeria positive results they have had in the past.</p> <p>No documented evidence was available at the time to demonstrate a record of actions, following positive detections at the site in the past.</p> <p>A file of test results is maintained but this needs to be a formalised process – to demonstrate the site is on control and can verify actions taken following a positive detection</p>

Appendix 6
**Example of historic compliance
issues at I Cook Foods Pty Ltd
from 2017**

A6

Premises Inspection Report

Food Act 1984.



Name of Proprietor: I Cook Foods Pty Ltd Reg. No: F-1678
 Trading Name: I COOK FOODS PTY LTD Inspection Date: 20-Apr-2017
 Address of Premises: 2/12 Zenith Road DANDENONG Follow-up inspection:
 SOUTH VIC 3175

An assessment of this premises revealed the following non-compliance.

The following items are to be completed:

To be done within

Cleaning Check List

- | | | |
|----|--|-------------|
| 1. | Ensure all foods are stored minimum 200mm up off the floor to facilitate cleaning and to prevent any contamination of food products. | Immediately |
| 2. | Thoroughly clean the pest strips in the rear. | Immediately |
| 3. | Thoroughly clean the outside freezers | Immediately |
| 4. | Thoroughly clean the air vent in the production area | Immediately |
| 5. | Thoroughly clean the food preparation areas. | Immediately |
| 6. | Thoroughly clean the cleaning equipment and the cleaning room. Ensure that spray drift does not reach the production floor. repair the walls in the cleaning area and replace the grouting around the benches and sinks. Ensure that the temperature of the dish washer is hot enough to sanitise all equipment. | 7 days |
| 7. | Thoroughly clean in all hard to reach areas, this includes, floors, walls, ceilings, under equipment (weighing equipment), fixtures & fittings, floor of coolroom, floor of freezer no. 1. Spray cleaning should only be done at the end of production and in the enclosed cleaning area. | 14 days |
| 8. | Maintain the floors in good order. council understands that this will be done soon. | 30 days |

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 TIS: 13 14 50


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Cleaning Check List


9. Clean the dry store area and maintain it in a clean condition at all times. remove any extraneous equipment, clean the floors, ensure that items are not stacked dangerously, remove the container of standing water under the compressor and ensure that cobwebs are removed after the pest inspection. 30 days

General Check List

1. Remove all disused and unwanted items from the rear yard. Immediately
2. Repair all hand wash basins and ensure that warm water is supplied to them at all times. Immediately
3. Entry to these premises must be kept closed at all times except when accepting deliveries. Immediately
4. When completing records for the FSP please ensure that the remarks and documents are correct. Immediately
Noted today was that the HWB's had no warm running water, however it was ticked on the corresponding FSP record that they were all supplied with warm water.
5. The fire exits must not be blocked at any time. Remove all items to allow staff to access quickly if necessary. Immediately
6. At the time of inspection access to the medical equipment was restricted. Ensure that all staff are able to access 1st aid at all times. Immediately
7. All processes must be recorded and up to date on the FSP. 7 days
On the cleaning record please ensure that a time is entered.
FSP must be completed at the end of every day.
8. The Food Safety Program must be updated annually and a corrective action report must be raised for every incident that occurs as soon as possible. 7 days
Please also ensure that all labels are up to date with current Australian standards.
It is also not premissable to use a blanket statement (may contain) on products that contain allergens.
9. Provide a storage cupboard(s) for the white boots used on the production floor. 14 days
10. Dish area - dispose of any broken containers, remove any containers from the floor and resanitise, replace the chopping boards, clean this area and make repairs to damaged areas. 30 days
11. All food supplied for these premises must be up to date including ingredient listing (and ingredients in the ingredients if required), and provide evidence of any claims of 'no gluten' 'halal' or 'kosher' 30 days

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 Fax 8571 5196


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Food Handling Check List




- | | |
|---|-------------|
| 1. Ensure all foods are cooked to the core above 75 degrees Celsius. | Immediately |
| 2. The storage conditions of all prepared foods must be accurate, known and described in the food safety program of the business. | Immediately |
| 3. Ensure that all suppliers provide certified evidence to demonstrate the shelf life of products | Immediately |
| 4. Defrost the freezer unit in the staff area. | Immediately |
| 5. Store opened packets or dry foods in food grade containers with properly fitting lids. | Immediately |
| 6. Cover all exposed foods to prevent possible contamination when temperatures have reduced adequately. Provide temperature documentation (what temp is reached before food is covered) of this in the food Safety program. | Immediately |
| 7. Inspect delivery vehicles on a regular basis for temperature control and cleaning and ensure that these are recorded on the FSP | Immediately |
| 8. Ensure all high risk foods are delivered at or below 5 degrees Celsius or frozen hard. | Immediately |



Food Safety Program Check List

- | | |
|--|-------------|
| 1. Document all recall procedures undertaken by the business. | Immediately |
| 2. Allocate a separate area for the isolation of damaged foods or recalled food. | Immediately |
| 3. Ensure the food safety program is kept onsite at all times and all records are completed correctly. | Immediately |
| 4. Ensure all food safety practices outlined in the food safety program are adhered to. | Immediately |
| 5. Provide council with a copy of the third party audit certificate and report within 14 days of receiving them. | Immediately |

Food Safety Supervisor Check List

- | | |
|---|-------------|
| 1. Ensure disposable gloves are used appropriately, changed on a regular basis and hands are washed before and after use. | Immediately |
| 2. Ensure food handlers wash their hands regularly. Glove use and sanitisers are not an alternative to hand washing. | Immediately |

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Structure Check List

- 1. Maintain equipment in good working order, ie chipped equipment. Immediately
- 2. Repair or replace any chipped paint on mixing equipment. Immediately
- 3. Provide a rubbish bin at all hand basins Immediately
- 4. Clean the ceiling vents and remove the louvres 7 days

Temperature Check List

- 1. Use a probe thermometer to record the temperatures of the cold storage units. Immediately
- 2. Use a probe thermometer to record the temperatures of hot storage units. Immediately

Comments

Please ensure that all items are completed in a timely manner. Noted at the time of inspection was that some of the FSP records were not immediately available. Please ensure that all records are up to date at all times, including corrective action records and the like.

Please contact councils planning department to gain permission for the freezer outside and include a monitoring program for temperature control and cleaning in the FSP.

Thank you for your time.

General Summary

Cleaning:	Average	Food Safety Program:	Average
Temperature:	Excellent	Food Safety Supervisor:	good
Structure:	good	Food Handling:	good

Total 23 /30

Should you have any queries regarding this inspection report feel free to give me a call on (03) 8571 1441.

Please note, if the non-compliant items are not completed by the specified date then further inspections will incur a fee.

Yours faithfully,

Environmental Health Officer

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Appendix 7
**Emails to and from Ms Johnson
dated 2018**

A7

Rogerson, Kim

From: Johnson, Leanne
Sent: Thursday, 25 October 2018 11:58 AM
To: RegServAdmin
Cc: Rogerson, Kim
Subject: FW: Issue of information supplied for Allergens declared from Manufacturer of meals
Attachments: Glossary Menu 14 Final.xlsx; Icook sample 1.JPG; I cook sample 2.JPG; I cook sample 3.JPG

Hi

Can this please be logged onto merit and assigned to Kim

Thanks

Leanne

From: [REDACTED]
Sent: Thursday, 25 October 2018 11:57 AM
To: Johnson, Leanne [REDACTED]
Subject: Issue of information supplied for Allergens declared from Manufacturer of meals

Good morning Leanne,

Thank you for taking my call to discuss an issue found with food (allergen identification) from a meals supplier in your community.

Supplier: ICook Food Pty Ltd - Food Registration F-1678
Audit by [REDACTED] - DHHS Oct 2017.

Supplies meals for meals on wheels to another LGA.
They have requested in the past ingredients and allergen matrix from their Administration Person: [REDACTED], and have received only attachment supplied. (and told that's all they have to do)
Her contact details are [REDACTED]

Information supplied is not considered adequate for meals identified as this allows the client to have to make an assumed decision from the Glossary Menu on whether the product has an allergen in it or not.

Could this please be investigated as to whether they have available adequate labelling and allergen matrix available and meet the current labelling requirements and law.
I have also included pictures of the meal sample supplied.

A response of your investigation to me will be supplied to my client to ensure they have a supplier that meets their requirements.

Please accept my thanks for the work you will undertake, it is sincerely appreciated.

Kind regards

[REDACTED]
Food Safety ACTS

Dept of Health (Vic) & NFSA Reg: Food Safety Auditor

[REDACTED]

Rogerson, Kim

From: Rogerson, Kim
Sent: Monday, 4 June 2018 2:10 PM
To: Johnson, Leanne
Subject: FW: DTS results
Attachments: DTS18051305-02662776-F.pdf; DTS18051307-02662774-F.pdf;
DTS18051294-02662689-F.pdf; DTS18051341-02662686-F.pdf;
DTS18051331-02662680-F.pdf

Hi Leanne

I will advise Icook to chase up the Noodles and will sample as well.
Also a conversation will be conducted about other results.

Cheers

Kim Rogerson Environmental Health Officer
Ph: [REDACTED]
PO Box 200 Dandenong Vic 3175



From: Ben Cook <[REDACTED]>
Sent: Monday, 4 June 2018 1:38 PM
To: Rogerson, Kim <[REDACTED]>
Subject: DTS results

Hi Kim,

Please see attached some of the DTS results we have had back. More are still to be returned.

Please also note that the Hokkien noodles SPC is 360000. This product was tested raw and straight from the packet. Retail standard is 1 million SPC. So this product is fine. Had we cooked it we would have achieved a kill step which would bring the SPC below the required 100000 for class 1.

Kind Regards,

Benjamin Cook



I Cook Foods Pty. Ltd.
Office: [REDACTED]
Mob: [REDACTED]
Email: [REDACTED]
Web: www.icookfoods.com.au



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LABORATORY REPORT

on
 PACKAGED MEALS

Date: 03/06/2018
 Our Ref: DTS18051305
 Report No: 2662776
 Final

FOR: I COOK CATERING SERVICE

2/12 Zenith Road
 Dandenong South VIC 3175

Ian Cook

Date received: 30/05/2018

Order Number: MARIA P/O

Origin:

Code/Ref: EGG PULP 30/05/2018

Package Type:

Temperature on receipt: 4°C

TEST	RESULTS	METHOD N
30MAY18/11252479 Client ID: EGG PULP 30/05/2018		
Standard Plate Count	7000 cfu/g	PCFD 04 10.05
Listeria	Absent /25g	LSFD 02 05.05

Delegated Signatory - Micro

Testing services are subject to DTS Food Assurance terms and conditions.

NATA ACCREDITED LABORATORY
 Number - 345
 Sample(s) tested as received

Measurement Uncertainty (MU) data can be found on DTSLIVE at <https://lms.dtsfoodassurance.com.au>.
 Please note that the MU provided is indicative for general matrices and analytes only.
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LABORATORY REPORT
 on
 PACKAGED MEALS

Date: 03/06/2018
 Our Ref: DTS18051307
 Report No: 2662774
 Final

FOR: I COOK CATERING SERVICE

2/12 Zenith Road
 Dandenong South VIC 3175

Ian Cook

Date received: 30/05/2018	Order Number: MARIA P/O
Origin:	
Code/Ref: HOIKKEN NOODLES 30/05/2018	Package Type:
Temperature on receipt: 4°C	

TEST	RESULTS	METHOD N
30MAY18/11252502		
Client ID: HOIKKEN NOODLES 30/05/2018		
Standard Plate Count	360000 cfu/g	PCFD 04 10.05
Listeria	Absent /25g	LSFD 02 05.05



Delegated Signatory - Micro

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NATA ACCREDITED LABORATORY
 Number - 345
 Sample(s) tested as received

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LABORATORY REPORT
 on
 PACKAGED MEALS

Date: 03/06/2018
 Our Ref: DTS18051294
 Report No: 2662689
 Final

FOR: I COOK CATERING SERVICE

2/12 Zenith Road
 Dandenong South VIC 3175

Ian Cook

Date received: 30/05/2018 Order Number: MARIA P/O
 Origin:
 Code/Ref: CELERY SOUP PKD:29/05/2018 Package Type:
 USE BY:01/06/2018
 Temperature on receipt: 4°C

TEST	RESULTS	METHOD N
30MAY18/11252422 Client ID: CELERY SOUP PKD:29/05/2018 USE BY:01/06/2018		
Standard Plate Count	33000 cfu/g	PCFD 04 10.05
E.Coli	<3.0 MPN/g	CEFD 02.05 05
Enterobacteriaceae	<10 cfu/g	ENFD 12 12.08
Coagulase +ve Staphylococci (S.aureus and other spp.)	<100 cfu/g	STFD 03 09.06
Salmonella	Not Detected /25g	SMFD 02 05.05
Listeria	Absent /25g	LSFD 02 05.05

[Redacted Signature]
 Delegated Signatory - Micro

Testing services are subject to DTS Food Assurance terms and conditions.

NATA ACCREDITED LABORATORY
 Number - 345
 Sample(s) tested as received

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LABORATORY REPORT
 on
 VEGETABLES

Date: 03/06/2018
 Our Ref: DTS18051341
 Report No: 2662686
 Final

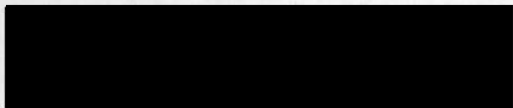
FOR: I COOK CATERING SERVICE

2/12 Zenith Road
 Dandenong South VIC 3175

Ian Cook

Date received: 30/05/2018 Order Number:
 Origin:
 Code/Ref: THAI COCONUT VEG CURRY & RICE PKD 29/05/2018 USE BY 02/06/2018 Package Type:
 Temperature on receipt: 4°C

TEST	RESULTS	METHOD N
30MAY18/11252771		
Client ID: THAI COCONUT VEG CURRY & RICE PKD 29/05/2018 USE BY 02/06/2018		
Standard Plate Count	600 cfu/g	PCFD 04 10.05
E.Coli	<3.0 MPN/g	CEFD 02.05 05
Enterobacteriaceae	<10 cfu/g	ENFD 12 12.08
Coagulase +ve Staphylococci (S.aureus and other spp.)	<100 cfu/g	STFD 03 09.06
Salmonella	Not Detected /25g	SMFD 02 05.05
Listeria	Absent /25g	LSFD 02 05.05



Delegated Signatory - Micro

Testing services are subject to DTS Food Assurance terms and conditions.

NATA ACCREDITED LABORATORY
 Number - 345
 Sample(s) tested as received

Measurement Uncertainty (MU) data can be found on DTSLIVE at <https://iims.dtsfoodassurance.com.au>.
 Please note that the MU provided is indicative for general matrices and analytes only.
 This document shall not be reproduced, except in full.

A7



Dairy Technical Services Pty Ltd t/as DTS Food Assurance ABN 30 004 319 171
 Corporate Office 3/63-71 Boundary Road North Melbourne VIC 3051
 www.dtsfoodassurance.com.au P: +61 3 8371 7500 F: +61 3 9372 2013
 Chemistry Laboratory 52-58 Mark Street North Melbourne VIC 3051
 Microbiology, FACTA & MAS Laboratory 5/352 Macaulay Road Kensington VIC 3031
 Seed Laboratory 3-5 Lillie Crescent Tullamarine VIC 3043 P: +61 3 8318 9024
 QLD Microbiology Laboratory 1-3, 148 Tennyson Memorial Ave Tennyson QLD 4105 P: +61 7 3426 9750
 NSW Microbiology Laboratory 3 Gateway Business Park 63-79 Parramatta Rd Silverwater NSW 2128 P: +61 2 8007 7447
 WA Microbiology Laboratory 2/ 26 Ilda Road Canning Vale WA 6155 P: +61 8 9455 9600



LABORATORY REPORT

on
 VEGETABLES

Date: 03/06/2018
 Our Ref: DTS18051331
 Report No: 2662680
 Final

FOR: I COOK CATERING SERVICE

2/12 Zenith Road
 Dandenong South, VIC 3175

Ian Cook

Date received: 30/05/2018

Order Number:

Origin:

Code/Ref: SAMPLE ID: 30/05/2018; PRODUCT:
 BEAN, CARROTS PKD 29/05/2018
 USE BY 02/06/2018

Package Type:

Temperature on receipt: 4°C

TEST	RESULTS	METHOD N
30MAY18/11252710 Client ID: SAMPLE ID: 30/05/2018; PRODUCT: BEAN, CARROTS PKD 29/05/2018 USE BY 02/06/2018		
Standard Plate Count	20 cfu/g	PCFD 04 10.05
E.Coli	<3.0 MPN/g	CEFD 02.05 05
Enterobacteriaceae	<10 cfu/g	ENFD 12 12.08
Coagulase +ve Staphylococci (S.aureus and other spp.)	<100 cfu/g	STFD 03 09.06
Salmonella	Not Detected /25g	SMFD 02 05.05
Listeria	Absent /25g	LSFD 02 05.05

Delegated Signatory - Micro

Testing services are subject to DTS Food Assurance terms and conditions.

NATA ACCREDITED LABORATORY
 Number - 345
 Sample(s) tested as received

Measurement Uncertainty (MU) data can be found on DTSLIVE at <https://ilms.dtsfoodassurance.com.au>.
 Please note that the MU provided is indicative for general matrices and analytes only.
 This document shall not be reproduced, except in full.

Rogerson, Kim

From: Johnson, Leanne
Sent: Thursday, 31 May 2018 5:03 PM
To: [REDACTED]
Subject: I Cook Catering
Attachments: CL18003104-02642987-F.PDF

Hi [REDACTED]

For tomorrow's inspection, please find below the failed results from I cook catering.

Thank you

Leanne

From: [REDACTED] >
Sent: Thursday, 31 May 2018 9:40 AM
To: Johnson, Leanne [REDACTED]
Cc: [REDACTED]
Subject: FW: Kew Meals on Wheels

Hi Leanne,

I know we had arranged to talk about this next Wednesday, however we have had another failed sample from Icook with both Listeria and E.coli detected.

Please see the below email from [REDACTED] regarding the history we have had with this premises. I have also attached the most recent lab results.

These meals are delivered packaged to our Meals on Wheels service and no food handling takes place. The sample was stored under temperature control in their coolroom prior to collection. Samples were transported under temperature control in an esky with ice bricks and dispatched to DTS under temperature control.

Can we have a talk about this when you get a chance? There is obviously something persisting in this facility which is concerning given the population the food is being prepared for.

This particular sample: Asian Noodles with Egg Garnish was the subject of an alleged food poisoning complaint earlier in the year from one of our meals on wheels clients, although no samples were available for testing at that time.

Thanks

[REDACTED]

[REDACTED] Public Health

8 Inglesby Rd, Camberwell, 3124

[REDACTED]
www.boroondara.vic.gov.au

Rogerson, Kim

From: Johnson, Leanne
Sent: Thursday, 21 June 2018 8:37 AM
To: [REDACTED]
Cc: Rogerson, Kim
Subject: RE: i cook catering

Hello

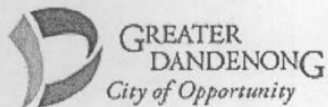
Kim had conducted further sampling, fish and fennel sauce product returned with low L.mono levels.
Surface swabs conducted and returned negative results
A second clean was conducted using a professional cleaner, this included 'fogging' that is a chlorine based product that fills the premises targeting hard to reach areas

Kim will undertake a follow up sample of the fish and fennel sauce product when it is on the menu

Cheers

Leanne Johnson
Coordinator Public Health

[REDACTED]
PO Box 200 Dandenong VIC 3175
www.greaterdandenong.com



Appendix 8

Gap Audit

H E A L T H



S P E C T R U M

GAP AUDIT REPORT

Name of proprietor	I Cook Foods Pty Ltd
Trading name of business	I Cook Foods Pty Ltd
Address	2/12 Zenith Road, Dandenong South Vic 3175
Phone number	9791 1066
Person in charge	Ben Cook
Council Registration current/ Council/ Current to	F-1678 Greater Dandenong current to 31 July 2019
Date	25 February 2019
Date of previous Audit	27 November 2017
Contact person	Ben Cook
Email address	info@icookfoods.com.au
Class of Premises	Class 2a
Type of Premises	Manufacturer – Potentially Hazardous Foods
Type of food/processes	Meals cooked from fresh. This is a cook chill, cook pasteurised,
Food Safety Supervisor/Certificate number and issuer/ date	Ben Cook FBPFYSY 1001; FDFFS2001A; Australian Institute of Food Safety 04.02.2019 Michael Cook FDFFS2001A; FBPFYSY 1001 Holmesglen 24 May 2013
Auditor	██████████
DHHS Number	██████████
Scope:	Food Safety Plan (FSP) – All components Food Safety Standards (Vic) 3.2.1/3.2.2/3.2.3
Food Safety Plan Date and version	January 2019 Quality Management System Program – V1.03 HACCP Program – V1.05 Approved Supplier Program – V1.01 Preventative Maintenance Program – V1.0

	Cleaning and Sanitation Program – V1.0 Pest Control Program – V1.0 Good Manufacturing Practices Program – V1.0 Laboratory Program – V1.0
--	---

Introduction

A gap analysis was carried out on the Food Safety Plan (FSP) as presented to me. At the time of the audit the premises was not operating.

The FSP is very badly formatted which makes some of the information extremely hard to follow and to understand. There are numerous bits of information missing. There are procedures that appear in parts of FSP and do not have associated information in the hazard analysis, flow chart or Standard Operation Instructions SOPs).

Some of the policies are not complete and are missing vital information.

There is information regarding labelling in the FSP, however, there are no examples of labels in the FSP.

I have carried out a desk audit of the FSP, but I have not carried out a detailed review of the records.

There are so many items in the FSP that need to be reviewed that I have only listed a sample of them.

Findings

The following is a some of the items that need to be addressed:

1. Risk assessment – I was unable to find a matrix for determining the risk rating for the hazards.
2. I was unable to find a Critical Control Point decision tree.
3. Microbiological testing – there is a policy for Meal Testing (Manual 2 page 72) – there is no mention of when testing is to occur and only seems to be about meals not sandwiches.
4. This policy does not mention what action is to be taken immediately if a positive test is recorded - only that there would be an investigation.

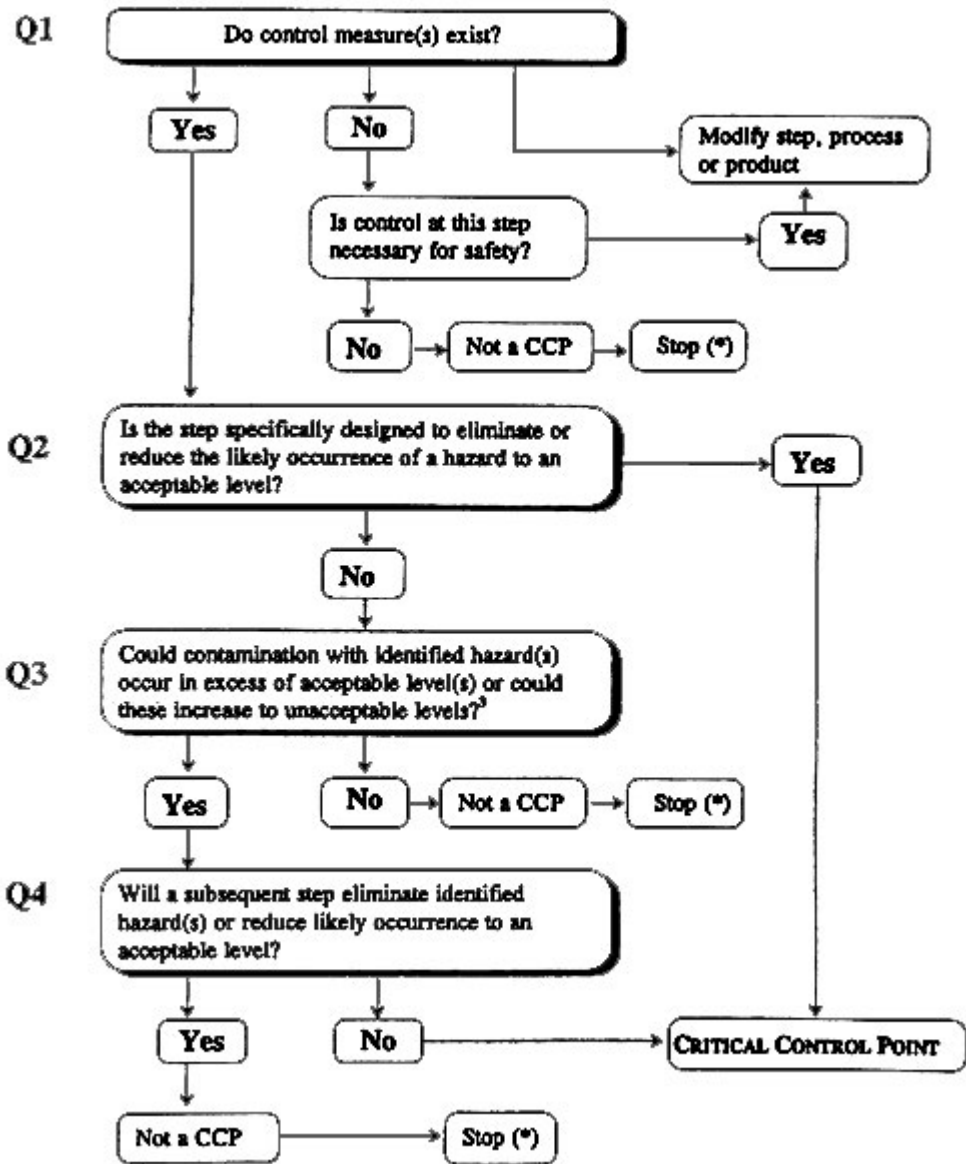
However, there is mention in Appendix 14.1 Cook-Chill Recall Plan on (page 76 of Manual 2). 'Cook-Chill Recall of any unconsumed or undelivered product'. This recall procedure as written appears to only relate to cook chilled meals and not other products that are produced such as sandwiches.

The policy also states that the Sample Submission and Results will be kept on file but there is no mention of what actions will be taken to limit the possibility that there will not be a recurrence.

5. There is no mention about environmental testing of equipment and structure.
6. The CCP in the Hazard Analysis tables need to be reviewed. For example 3.3 Hazard Analysis Table 3 (page 14 manual 2) Step 6 Cooking Bacon/eggs:

Control Measures
Is this step a CCP
Ensure adequate cook temperatures
Ensure eggs are fully set >75°C is achieved
No/CCP

Using the decision tree below this step is a CCP, as it will control microbiological contamination of the bacon and egg. Also cooking burgers, which is in the title is not mentioned in the table.



(source: Food and Agriculture Organization of the United Nations, undated, Draft Hazard Analysis and Critical Control Point (HACCP) System and Guidelines for its Application, <http://www.fao.org/3/w3700e/W3700E03.htm> , (downloaded 2/3/19)

- 7. The steps in the Hazard Analysis tables need to be reviewed as there is **not** a step for washing and sanitising fruit and vegetables.
- 8 The Cleaning and Sanitation Program needs to be reviewed. The floor is cleaned using the following method:
 - 1. Sweep (scrape if required) to remove food scraps, dust & debris
 - 2. Mop with hot water and detergent
 - 3. Allow to air dry

(Page 7 manual 5).

- 9. 12.3 Policy Potable Water Supplies Test has no information in it except the title of the appendix (page 17 of manual 1). It is referred to from Potable Water Supplies (page 12 manual 1).

- 11. Hazard Analysis –
 - a) Hazard Analysis Table 1 – Receivables and Storage – Chilled Product (page 11 manual 2)
 - b) Hazard Analysis Table 2 – Receivables and Storage – Packaging etc (page 12 manual 2)

The above 2 Hazard Analysis Tables refer to Flow Chart 1 which I am unable to find.

- 12. Thawing – (page 40 of manual 2) states:

‘Food that has been thawed and not served within two days is discarded’ – this statement is incorrect as this is a food manufacturing business not a food service business.

- 13. There is not a hazard/risk analysis for Texture Modified Meals, however it is mentioned in the Hazard Identification Table (page 31 of manual 2), in the Food Safety Management Table (page 43 of manual 2) and in the flowchart Food Service Process Flowchart (page 29 of manual 2). The flowchart doesn’t make sense.

- 14. In the Hazard Identification Table for labelling (page 45 of manual 2) under corrective Action states:

Corrective Action	Any Corrective Actions taken are documented on the <i>Corrective Action Report</i> , delegated a CAR number, and kept on file
--------------------------	---

It doesn’t state what corrective action needs to be undertaken.

- 15. There is a process under Good Manufacturing practices Texture Modification (this may be misnamed, it maybe should be named Texture Modification and packaging (page 18 manual 7). This states that the Texture modified vegetables are snap frozen. There isn’t a SOP for snap freezing.

16. On page 18 of manual 7 there is a boxed statement headed 'Recommendations for Equipment and Preparation' the word 'recommendations' should be removed. This boxed statement should possibly be in another location.
17. Fruit and vegetable washing – there isn't an SOP for the washing of fruit and vegetable. There is a mention in the Food Safety Management Tables in Preparation (page 94 of manual 2) under Control that fruit and vegetables are washed prior to use, in clean water. This is a step not a control measure.

Under Alternative Control Measures – Salad, Fruit and Vegetables (page 85 manual 2) that fruit and vegetables are washed prior to use. Further down it states that Intermittent testing will be carried out by DTS in Kensington – it doesn't mention testing for what and how often.

In Preparation (page 16 manual & 7) also states that fruit and vegetables are washed in a clean sink away from food preparation areas and allowed to drain – always make sure that Ozone generator is on.

This raises a number of questions – has using the Ozone generator been validated as a process that actually sanitizes the fruit and vegetables. When doing the walk around with Mr Ben Cook it was observed that the fruit and vegetable wash area was in the snack assembly area. Not away from the food preparation areas.

18. From a walk around and discussions with Mr Ben Cook and Mr Michael Cook, I am of the opinion that the workflow in the premises may cause cross contamination.
19. From my walk around with Mr Ben Cook and Mr Michael Cook, I am of the opinion that the floor in the food production area does not meet the requirements of the Food Safety Code Standard 3.2.3.10 (1) & (2) which states:
 - (1) Floors must be designed and constructed in a way that is appropriate for the activities conducted on the food premises.
 - (2) Subject to subclause (3), floors must –
 - (a) be able to be effectively cleaned;
 - (b) be unable to absorb grease, food particles or water;
 - (c) be laid so that there is no ponding of water; and
 - (d) to the extent that is practicable, be unable to provide harbourage for pests.

The floor is being fixed at the moment as a priority.

20. Manual 8 is called Laboratory Program. In this manual there are instructions of how to use a probe thermometer, replacement/calibration of probe thermometers, equipment maintenance and calibration, a probe thermometer replacement/calibration record proforma, and temperature log data – electronic (which is empty). There is nothing regarding a laboratory and is as such is mistitled. A more correct title would be Thermometers.

Conclusion

The FSP gives the impression that as the processes have developed over the years bits and pieces have been added and nobody has reviewed the plan as a whole.

All the processes are so intertwined that is hard to separate out the processes.

There are no clear SOPs for any step in any of the processes.

The Hazard Analysis and Risk Analysis is not clear for any process.

There isn't a Hazard Analysis and Risk Analysis for Texture Modified Meals.

The training of both of the Food Safety Supervisors is for the Food Processing Industry. I Cook is in reality a large catering organization so they really should have the Food Supervisor Competencies, at least for the Hospitality industry , if not for the Health industry. I would also recommend that somebody within the organization undertake training in Certificate IV in Food Science and Technology or a similar qualification.

My conclusion is that the plan as it is at the current time needs to be fully reviewed to ensure that the FSP addresses all the current legal, requirements to conduct the business.

Appendix 9

Confidential Food Safety Audit

A9



CONFIDENTIAL FOOD SAFETY AUDIT

1. FOOD SAFETY AUDIT DETAILS:

Client: I Cook Foods Pty Ltd
Address: 2/12 Zenith Road
Dandenong South Victoria 3175
Managing Director: Ian Cook
General Manager: Ben Cook
Audit Date: Wednesday 27th February 2019
Audit Start Time: 09:10
Audit Finish Time: 16:15
Report Finalising Time: 16:40 to 17:58 and 20:49 to 21:40
Auditor: [REDACTED]
Date report sent: Wednesday 27th February 2019
Reports emailed to: Ben Cook: [REDACTED]

2. CONFIDENTIALITY:

This audit was prepared for the management and staff of the I Cook Food Pty Ltd and is intended to identify positive food safety practices, as well as identify any potential food safety issues.

This report and any written words, recommendations, observations and photos are confidential and intended solely for the use of the management and staff of the I Cook Food Pty Ltd.

If you have received this audit report in error please send it back to Ben Cook and delete it. Unauthorised publication, use, dissemination or disclosure of this report, either in whole or in part is strictly prohibited.

3. PURPOSE:

The purpose of the Food Safety Audit was to review the I Cook Foods Pty Ltd Food Safety Program and review its compliance with the:

- FSANZ Food Standards Code;
- Food Act 1984 (Victoria).

NOTE: The I Cook Foods Pty Ltd "Food Safety Program" was also referred to internally as a Food Quality Management System and/ or HACCP Program.



4. LEGISLATION APPLIED:

The findings and observation in these reports are not just for HACCP Certification or "Best Practice" requirements. They are Australia wide minimum standards and are legislative requirements detailed in:

Food Act 1984 (Victoria):

- o http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubLawToday.nsf/a12f6f60fbd56800ca256de500201e54/f10368ee3091bde6ca25818c0018fe74!OpenDocument

The FSANZ Food Standards Code:

- o <http://www.foodstandards.gov.au/code/Pages/default.aspx>

5. AUDITORS QUALIFICATIONS AND EXPERIENCE:

██████████ is the Founder and Managing Director of The Gourmet Guardian Pty Ltd, and has undergone the following training:

- Certificate IV in Assessment and Workplace Training (TAE): Box Hill College of TAFE;
- Diploma of Food Technology: William Angliss Institute of TAFE;
- Diploma of Confectionary Manufacture: William Angliss Institute of TAFE;
- Principles and Applications of HACCP: Food Operations;
- Apprenticeship in Cookery: Dandenong College of TAFE.

██████████ is approved to conduct legislative Food Safety Audits with the following Government regulators:

- Queensland Health (Auditor Number: ██████████);
- New South Wales Food Authority (Auditor Number: ██████████);
- Victorian Department of Health and Human Services (Auditor Number: ██████████);
- Tasmanian Department of Health and Human Services (Auditor Number: ██████████);

██████████ is a certified Food Safety Auditor with Exemplar Global (Formerly RABQSA) Auditor Number ██████████ and is also a member of Australian Institute of Food Science and Technology (AIFST).

██████████ is also the Principal of a Registered Training Organisation (RTO) called Prime Skills Pty Ltd (Provider Number ██████████) that specialises in delivering training including

- Level 1: Food Hygiene Course;
- Level 2: Food Safety Supervisor Course;
- Allergen Awareness;
- Workplace Health and Safety;
- Responsible Service of Alcohol (RSA); and
- Company Induction.

In addition, The Gourmet Guardian Pty Ltd and/ or ██████████ are members of:

- The Food Safety Information Council;
- The Allergen Bureau;
- Café Owners and Barista Association (COBAA);
- Australian Culinary Federation.



6. AUDIT SUMMARY

6.1 AUDIT CONSIDERATIONS and RESTRICTIONS:

I Cook Foods Pty Ltd has been closed by the Department of Health and Human Services (Victoria) and the City of Greater Dandenong. There was no food production seen at the time of the audit, and there were only minimal volumes of food being stored. Therefore:

- ❑ I Cook Foods Pty Ltd compliance with their Food Safety Program could not be observed;
- ❑ Completion of monitoring records could not be matched to the operations;
- ❑ Employees knowledge of the I Cook Foods Pty Ltd Food Safety Program could not audited.

Completed monitoring records were also not reviewed as part of this audit.

The sole scope of the audit that I was asked to conduct, was to review the compliance and suitability of the current I Cook Foods Pty Ltd Food Safety Program.

6.2 POSITIVE FINDINGS:

- ❑ The main FSANZ based Temperature or industry common practise Control Critical Limits were applied including:
 - Cold Potentially Hazardous Food (PHF) received at or below 5° C;
 - Cold Potentially Hazardous Food (PHF) held at or below 5° C;
 - Frozen foods received at or below -15° C;
 - Frozen foods held at or below -15° C;
 - Cooked food cooked at or above 75° C;
 - Hot foods held above 60° C;
 - Cooled food chilled from cooking to below 5° C in under two hours;
 - Preparation outside of temperature control is restricted to less than 2 hours;
- ❑ Blast chillers are used for cooling cooked foods;
- ❑ The General Manager (Ben Cook) has a very good knowledge of safe food temperatures;
- ❑ Daily monitoring forms and the frequency of monitoring appears to be adequate to comply with the Department of Health and Human Services (Victoria) expectations for the products that will continue to be prepared.

NOTE:

- ❑ The FSANZ Food Standards Code:
 - Only specifies "frozen solid";
 - Does not specify any cooking temperatures;
 - Only specifies the cooling to 5° C to be within 6 hours;
- ❑ The Preparation control time is a guideline in Safe Food Australia.



6.3 SUMMARY OF POTENTIAL PROBLEMS:

It is my opinion that the I Cook Foods Pty Ltd Food Safety Program is not compliant with the Food Act 1984 (Victoria) and Standard 3.2.1 of the FSANZ Food Standards Code.

NOTE: I Cook Foods Pty Ltd also have obtained and maintained external certification against ISO 22000:2015. It is my opinion that the I Cook Foods Pty Ltd Food Safety Program is not compliant with ISO 22000:2015 requirements.

I have prepared a detailed review of the I Cook Foods Pty Ltd Food Safety Program as a separate report, however in summary:

- ❑ Key HACCP requirements including a Process Flow Diagram, Hazard Analysis Tables and CCP Determinations have been completed, however are inconsistent with each other, and appear to be missing multiple steps;
- ❑ There are PrimeSafe and Halal references that do not appear to relate to the operations currently being conducted;
- ❑ Ready to Eat processes (including sandwiches and salads) are not referenced in any detail (NOTE: I have been advised that I Cook Foods Pty Ltd are no longer going to produce these food products);
- ❑ There are inconsistent references to monitoring forms and employees;
- ❑ There are multiple processes and requirements that do not appear to have been referenced (including allergen controls, maintenance, packaging controls and labelling requirements);
- ❑ Documented controls that are contained are very brief and do not adequately identify the "what, when, why, how and how often". Monitoring frequency is understood but poorly referenced in the documented procedures.

NOTE 1: I Cook Foods Pty Ltd have been externally audited by third party auditors approved by the Department of Health and Human Services (Victoria) for well over 10 years (though it appears that an audit may not have been conducted in 2018). It is my professional opinion that the previous external auditors have not served I Cook Foods Pty Ltd very well and should have detected the deficiencies in the I Cook Foods Pty Ltd Food Safety Program that I have found today. I believe that I Cook Foods Pty Ltd have done what they thought was legally required, and have not deliberately tried to short cut their legal responsibilities.

NOTE 2: The 22000:2015 audits have been conducted by auditors that are not approved Department of Health and Human Services (Victoria).

NOTE: [REDACTED] and [REDACTED] are on the current list.



6.4 RECOMMENDATIONS:

The I Cook Foods Pty Ltd Food Safety Program either needs:

- A significant overhaul to be updated; or
- To be rewritten from scratch.

It is recommended that the Food Safety Program be sectioned so that there is a separate section for:

- Business information;
- Twelve HACCP Steps, incorporating the seven HACCP Principles requirements;
- The procedures relating to processes (and they are written in the rough order that the flow chart is in – i.e. buy, receive, store, prepare, cook, package, cool etc.). These are often called Work Procedures or Standard Operating Procedures);
- The procedures relating to all areas (often called Prerequisite Programs or Support Programs) including personal hygiene, cleaning, maintenance, pest control etc.;
- Blank monitoring forms (rather than having them throughout the Food Safety Program).

It is also recommended that you:

- Combine and/ or remove the flow charts not needed so that you have:
 - One flow chart that combines the three main processes; or
 - One flow chart for each process (so three in total);
- Be consistent with employee titles and monitoring form names;
- Give each monitoring form a unique number;
- Remove sections that are no longer relevant (i.e. It is unclear why Halal products need their own flow chart and hazard analysis tables).



7. SUMMARY

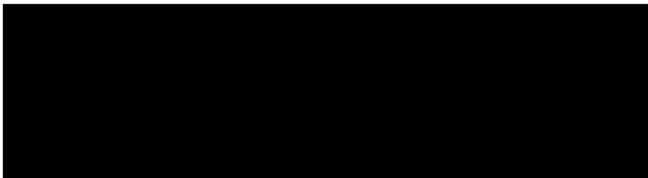
As indicated above, Ben Cook can clearly explain the food safety controls that need to be applied including safe times and temperatures. While monitoring forms are inconsistently named and referenced, the checks that are already in place adequately monitor and control the potential food safety hazards that may occur.

To prepare and implement a site specific Food Safety Program (that adequately identifies and controls the potential hazards) can take many weeks or even months. It is difficult to write accurate and precise procedures based on theory (or what might happen). It is recommended after the deep clean has been conducted that I Cook Foods Pty Ltd be allowed to reopen, provided that they:

- Only prepare foods that are cooked and cooled, and require reheating before consumption;
- All existing daily and CCP monitoring be continued, and a copy sent at the end of each day to the City of Greater Dandenong's nominated EHO;
- Undertake weekly environmental swabbing for *Listeria Monocytogenes* until three weeks of negative results are received;
- Engage a suitably trained and experienced consultant to develop a site specific Food Safety Program, and a one month development time be permitted;
- A DHHS Approved Food Safety Auditor conduct weekly unannounced hygiene inspections to view compliance with cleaning, personal hygiene and production controls for four weeks. Reports are prepared and sent to the City of Greater Dandenong's nominated EHO;
- A copy of the revised Food Safety Program:
 - o Be reviewed by a DHHS Approved Food Safety Auditor; and
 - o Submitted to the Department of Health and Human Services;
- A DHHS Approved Food Safety Auditor conducts a full Food Act Audit within three months of the updated Food Safety Program being developed, with copies provided to the Department of Health and Human Services (Victoria) and the City of Greater Dandenong.

Please let me know if you need any clarification on these points,

Eat well. Eat safe!



Founder and Managing Director
The Gourmet Guardian Pty Ltd
P: 1800 FOOD SAFETY (1800 366 372)

M:

E:

Appendix 10
**Charges against I Cook Foods
Pty Ltd**

A10

Bring this with you to Court

FORM 3

Rule 11

CHARGE-SHEET AND SUMMONS

TO THE ACCUSED: Ian Cook [REDACTED]	Gender: M	Date of Birth: [REDACTED]
	Mobile Phone number:	Email address:
	Registration number of vehicle:	State registered:
	Driver Licence Number:	State issued:

You have been charged with an offence. Read these pages to see what you must do.

Details of the charge against you

What is the charge?	(1) On or about 22 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which sold to Whitehorse City Council food that was unsuitable. <u>Particulars:</u> Vegetable satay and peanut garnish was sold to Whitehorse City Council for its 'meals on wheels' service. Sampling of the food returned a positive test result for the presence of Listeria monocytogenes in the food.
---------------------	---

If you do not appear in answer to a summons and the charge is an indictable offence that may be determined summarily the Magistrates' Court may hear and determine the charge in your absence. If you do not appear in answer to a summons for an indictable offence the Magistrates' Court may conduct a committal proceeding in your absence.

Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 12(2)
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence)			
	<input type="checkbox"/> Enforcement Review <input type="checkbox"/> Infringements Act 2006 section 40		<input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Other (specify)	
Date of Service by the Director Fines Victoria				
Are there more charges?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes - see 'Continuation of Charges' attached			
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			

Who filed the charge-sheet(s)?

Informant	Leanne Johnson		
Agency	Greater Dandenong City Council C/- Russell Kennedy Lawyers	Agency Ref:	[REDACTED]
Address	PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Informant	[REDACTED]	Date:	22/5/19
Filed at:	MELBOURNE	Date:	23 MAY 2019

Where will the case be heard?

Where you must go	The Magistrates' Court at Dandenong			
Address	35 Pultney Street, Dandenong		Phone No: (03) 9767 1300	
When	Time 9:30 am	Day 1st	Month AUGUST	Year 2019

Details about this summons

Issued at	Melbourne Magistrates' Court	Date	23 MAY 2019
Issued By (Signature)	[REDACTED]	<input checked="" type="checkbox"/> Registrar <input type="checkbox"/> Magistrate <input type="checkbox"/> Prescribed Person	

A10

Form 2

Rule 11

Continuation of Charges

Page No: 2 of 27

Person charged: Ian Cook, [REDACTED]

Details of the charge against you				
What is the charge?	(2) On or about 22 February 2019, at Dandenong South, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which supplied food by way of sale to Whitehorse City Council that was not of the nature or substance demanded by the purchaser. <u>Particulars:</u> Vegetable satay and peanut garnish food was sold to Whitehorse City Council for its 'meals on wheels' service. Sampling of the food returned a positive test result for the presence of Listeria monocytogenes in the food. Whitehorse City Council demanded the supply of food that complies with the Food Act 1984.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 14(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(3) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> All necessary steps to prevent the likelihood of food being contaminated were not taken. Staff using a hose to pressure wash food handling equipment and food preparation surfaces in close proximity to food handling activities. Water and aerosols from this activity were being distributed in the area, with the contamination of the food handling processes and surfaces likely to have occurred. Cleaning staff were observed pressure washing the bank of ovens, then moving back through the area, pressure washing the food preparation benches. Cleaning was observed to be done in such a way that as the staff moved through the food preparation area, the air flow and their method/direction of cleaning caused the spray from the pressure washing hose to re-contaminate the equipment that had already been cleaned. A staff member observed working on weighing and packaging mixed potato was observed to be wearing a loose necklace that repeatedly came untucked from her clothing. Waste bins were observed to be stored in close proximity to food processing, packaging and/or handling equipment.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 3			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	[REDACTED]	
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Details of the charge against you				
What is the charge?	<p>(4) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 21(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The floor in the premises was not maintained in a good state of repair and working order having regard to its use. The flooring throughout the premises was in an advanced state of wear, with large sections of flooring worn away, chipped, cracked and broken. Loose pieces of flooring were observed in a number of food preparation areas. All fixtures, fittings and equipment were not maintained in a good state of repair and working order having regard to their use. Plastic door stripping at doors was in a damaged condition. A large soaking unit in the main food preparation area was broken and was full of waste water that contained visible grease and food particles. A stainless steel topped food preparation bench was observed to have a damaged and deteriorated chipboard base underneath. Several chopping boards were in varying states of repair. In the scullery area, the silicone join between the wall surfaces and the bench top were in an advanced state of wear. Worn/damaged containers and jugs present in the plating/packing area. The wall surfaces in the scullery area were damaged and were not smooth.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 4			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council		Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[REDACTED]
Email	[REDACTED]			
Signature of Registrar:	[REDACTED]		23 MAY 2019	
Filed at:	MELBOURNE		23 MAY 2019	

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Rule 11

Continuation of Charges

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Person charged: Ian Cook, [REDACTED]

Details of the charge against you			
What is the charge?	<p>(5) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 19(2) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> A build up of dirt, debris, residue and other matter was observed on a number of fittings, fixtures and equipment throughout the premises. Trolleys in an unclean condition were observed throughout the premises. A number of the sets of plastic door stripping at doors were in an unclean condition. Accumulation of debris and food residue on chopping boards. Visible residue on open box of food handling gloves. Unclean and worn/damaged containers and jugs present in the plating/packing area. Debris and residue observed on a number of stainless steel trays. An accumulation of dust and debris on the fan unit an ceiling within the hospital food preparation area. In the scullery area, the mechanical exhaust hood was in an unclean condition with debris visible on the surface.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984
	Section or Clause 16(1)		
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Details of the charge against you			
What is the charge?	<p>(6) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 15(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> A food handler when engaging in a food handling operation did not take all practicable measures to ensure that anything he or she is wearing does not contaminate food or surfaces likely to come into contact with food – a staff member working on weighing and packaging mixed potato was observed to be wearing a loose necklace that repeatedly came untucked from her clothing</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984
	Section or Clause 16(1)		
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 5		
Signature of Informant:	[REDACTED]		
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019

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Details of the charge against you				
What is the charge?	<p>(7) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 15(2)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> A staff member was observed weighing mixed potato, then moving the scales and touching other surfaces and then returning to working with the mixed potato without washing her hands when her hands were likely to be a source of contamination of food.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(8) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 15(3)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> A staff member was observed weighing mixed potato, then moving the scales and touching other surfaces and then returning to working with the mixed potato without washing her hands when her hands when she should have washed her hands before re-commencing handling food.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 6			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	[REDACTED]	
Signature of Registrar:	[REDACTED]	Date:	[REDACTED]	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Rule 11

Continuation of Charges

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Person charged: Ian Cook, [REDACTED]

Details of the charge against you				
What is the charge?	<p>(9) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 13 of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p>Particulars: A food handler did not take all reasonable measures not to handle food or surfaces likely to come into contact with food in a way that is likely to compromise the safety and suitability of food, in that a staff member cleaning the food preparation benches with a sponge was observed to drop the sponge on the floor and then pick up the sponge from the floor and then continue using the sponge to clean the benches.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(10) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 24(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p>Particulars: A live animal (a slug) was observed on the floor of the food preparation area where food products were being stored.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No / <input checked="" type="checkbox"/> Yes - see page no. 7			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council		Agency Ref: [REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No: [REDACTED]	
Email	[REDACTED]		Fax No: [REDACTED]	
Signature of Registrar:	[REDACTED]			
Filed at:	MELBOURNE		23 MAY 2019 23 MAY 2019	

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Person charged: Ian Cook, [REDACTED]

Details of the charge against you				
What is the charge?	<p>(11) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 24(1)(b) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> All practicable measures to prevent pests from entering the food premises were not taken – a live slug was observed on the floor of the food preparation area.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(12) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 19(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The food premises was not maintained to the required standard of cleanliness. Water was observed to be ponding on the floor beneath food storage containers in the food storage area, as well as beneath trolleys storing equipment on the flooring in front of the blast chillers within the main production area. In the hospital food preparation area, the silicone joint between the wall and bench surfaces behind the bowl sink was in an unclean and worn state. The wall surfaces in the scullery area were damaged, in an unclean condition. In the scullery area, the silicone joint between the wall surfaces and the bench top was in an advanced state of wear and was unclean. In the scullery area, there was an accumulation of food residue, dirt and debris on the flooring beneath the dishwashing unit. There was a general build-up of debris and food residue on the flooring of the cool rooms.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 8			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council		Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[REDACTED]
Email	[REDACTED]		Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]		Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

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Rule 11

Continuation of Charges

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Person charged: Ian Cook, [REDACTED]

Details of the charge against you				
What is the charge?	(13) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 10(2)(c) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Floors were laid such that there was ponding of water. Water was observed ponding on the floor beneath food storage containers in the food storage area, as well as beneath trolleys storing equipment on the flooring in front of the blast chillers within the main production area.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(14) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 17(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Easily accessible hand washing facilities were not maintained. The hand wash basin in the hospital food preparation area was observed to be not functional. In the plating/packing area, the two hand wash basins in the area were located at opposite ends of the work area and both were obstructed with pieces of equipment, preventing staff from gaining easy access for hand washing.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 9			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council		Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[REDACTED]
Email	[REDACTED]		Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]		Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

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Details of the charge against you				
What is the charge?	(15) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 17(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> A supply of warm running water was not maintained at the hand wash basin in the hospital food preparation area. The hand wash basin was observed not to be functional.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(16) Between 18 February 2019 and 22 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 12(2)(b) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> In the scullery area, there was a high pressure hose observed tied to the legs of the bench in a manner that it did not allow it to be removed for cleaning.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 10			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	23 MAY 2019	
Signature of Registrar:	[REDACTED]			
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Rule 11

Continuation of Charges

Page No: 10 of 27

Person charged: [REDACTED]

Details of the charge against you				
What is the charge?	(17) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with Standard 1.2.5 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Pouches of Scotch Broth Soup were stored in bread crates within a cool room and were labelled with the production date being "18/2" with a use by of "48 Hours from Delivery", when an actual use by date needs to be specified.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(18) Between 18 February 2019 and 22 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 12(1)(b) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Equipment was not fit for its intended use, in that a large number of yellow crates were being used for the storage of bagged food products. The crates were of a construction that had holes and gaps in the surfaces that did not allow for effective cleaning of the crates.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 11			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	[REDACTED]	
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Details of the charge against you				
What is the charge?	<p>(19) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 6(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> Food was not stored in such a way that it was protected from the likelihood of contamination. In the cool rooms, there were a number of trolleys containing uncovered food products, including meat products, gravy, carrot, cauliflower and what appeared to be an egg mix. In the warehouse, a damaged can of vegetable oil was observed stored on a crate amongst other cans of oil.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(20) Between 18 February 2019 and 22 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 13(2) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The condensate outlets for the cool rooms were not connected to a sewage and wastewater disposal system. The condensate was piped to the wall directly adjacent to the loading bay and car park, where the water was being discharged directly onto the pavement and was flowing across this space to pool beneath parked cars and stacks of wooden pallets.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 12			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council		Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[REDACTED]
Email	[REDACTED]		Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]		Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

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Rule 11

Continuation of Charges

Page No: 12 of 27

Person charged: Ian Cook, [REDACTED]

Details of the charge against you				
What is the charge?	(21) On 18 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 6(a) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Adequate garbage storage facilities were not provided to adequately contain the volume and type of garbage and recyclable matter on the food premises – an uncovered and overloaded waste bin was being stored in the outside area.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(22) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 17(1)(d)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Single use towels or other means of effectively drying hands were not provided in the staff toilets.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 13			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council C/- Russell Kennedy Lawyers		Agency Ref:	[REDACTED]
Address	PO Box 5146 Melbourne Vic 3001		Phone No:	[REDACTED]
Email	[REDACTED]		Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]		Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

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Details of the charge against you				
What is the charge?		<p>(23) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 19(2) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> A build up of dirt, debris, residue and other matter observed on a number of fittings, fixtures and equipment throughout the premises. Trolleys in an unclean condition were observed throughout the premises. Debris and food residue observed on the internal surfaces of the slicing unit in the butcher area. Several chopping boards in varying states of wear. Food handling equipment being stored in the area designated for the storage of clean equipment was observed to have debris and food residue present on the surface of a number of items. A number of plastic containers used for food storage within the food preparation and storage areas were in an unclean condition, with dirt, debris and sticker residue having accumulated on the surface. Residue and condensate observed to be present on the edge of the mechanical exhaust hood directly above where washed equipment comes out of the machine. Spray bottles containing sticker residue were in an unclean condition in the plating/packing area. A number of chemical containers stored in the chemical storage area were in an unclean condition. Water pooling between the stainless steel bench and conveyor belt where sandwiches are made, providing an environment to potentially harbour pathogens. Debris and food residue present on the internal surfaces of the slicing unit. A build up of slime like residue was observed on the surface of the bench beneath the bread crates used in the scullery area. Dirty plastic cover over what appeared to be a switch on the wall above the dishwasher. Dirty stainless steel trays with food residue present after use. A number of food handling utensils stored in the hospital food area were in an unclean condition. Debris and residue located on the cutting blades of a large Felix slicing unit. Bowl cutting unit observed to have a build-up of residue on the internal blades.</p>		
Under what law?		<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984
				Section or Clause 16(1)
Type of Offence		<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria				
Are there more charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 14				
Signature of Informant:		[REDACTED]		
Agency	Greater Dandenong City Council		Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[REDACTED]
Email	[REDACTED]		Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]		Date:	23 MAY 2019
Filed at:	MELBOURNE	[REDACTED]		Date: 23 MAY 2019

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Continuation of Charges

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Person charged: Ian Cook, [REDACTED]

Details of the charge against you			
What is the charge?	<p>(24) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> All necessary steps to prevent the likelihood of food being contaminated were not taken. During the cleaning process, staff members were observed cleaning in a manner that was likely re-contaminating surfaces that had already been cleaned. A pressure hose was being used to wash down unclean benches, however this was being done in such a manner as the spray was aimed in the direction of those benches that had already been cleaned. Waste bins were observed to be stored in close proximity to food processing, packaging and/or handling equipment.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984
	Section or Clause 16(1)		
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Are there more charges?			
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 15			
Signature of Informant: [REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019

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Details of the charge against you				
What is the charge?	<p>(25) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 21(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p>Particulars: The premises, all fixtures, fittings, and equipment, having regard to their use were not maintained in a good state of repair and working order having regard to their use. The surface of the large mixing unit in the butcher area was in a state of wear, with the surface observed to be peeling off. In the main food preparation area, there was a stainless steel food tray containing a green liquid on the floor below the texture modified meal forming machine – the machine had a coolant leak and the tray was collecting the fluid. Tub of water located directly next to the cook tops was in a poor state of wear, as was the jug that was being stored on the side of the tub. Several chopping boards in varying states of wear – some had surface peeling and deep gouges. The lid of the bulk sugar container was broken, with a section of the plastic lid missing. Worn and damaged food handling equipment was observed in the scullery area. A number of food handling utensils stored in the scullery area were in an advanced state of deterioration, worn and damaged. The belt on the conveyor belt for sandwiches had visible damage to its surface. Tub on trolley observed to be broken with large sections of plastic coming away at the top of the tub. Deteriorated wooden handle on a metal spatula sitting in a plastic container.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No / <input checked="" type="checkbox"/> Yes - see page no. 16			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	[REDACTED]	
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Rule 11

Continuation of Charges

Page No: 16 of 27

Person charged: Ian Cook, [REDACTED]

Details of the charge against you			
What is the charge?	(26) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 6(1)(b) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Food was not stored in such a way that the environmental conditions under which it is stored will not adversely affect the safety and suitability of the food in that two previously opened bottles of sauce (Worcestershire and soy) were being stored on shelving in the food storage area, the labels of which stated that they required refrigeration after opening and the area in which they were being stored was not refrigerated.		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984 Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Details of the charge against you			
What is the charge?	(27) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 19(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The premises was not maintained to the required standard of cleanliness. Water was observed ponding on the floor in front of the blast chiller units. Dirt and debris was observed on the flooring behind the blast chiller units and well as the bank of ovens and the Bratt Pan. Wall surfaces in the scullery area were damaged, in an unclean condition. The silicone join in the scullery area between the wall surfaces and the benchtop was in an advanced state of war and was unclean and mouldy. Unclean plastic stripping was present in the space between the chemical storage area and the external roller door. In the hospital food preparation area, the silicone join between the wall and the bench surfaces behind the double down sink was in an unclean state. Metal screw observed on the floor in the butcher area beneath the double sink. Build up of dust and debris within the mechanical exhaust hood above the dishwasher in the scullery as well as on the wall below.		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984 Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 17		
Signature of Informant:	[REDACTED]		
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019

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Details of the charge against you			
What is the charge?	<p>(28) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 17(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Easily accessible hand washing facilities were not maintained. The hand wash basin in the hospital food preparation area was observed to be not functional.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984 Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Details of the charge against you			
What is the charge?	<p>(29) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 17(1)(b) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> A supply of warm running water was not maintained at the hand wash basin in the hospital food preparation area. The hand wash basin was observed not to be functional.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984 Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 18		
Signature of Informant:	[REDACTED]		
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019

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Rule 11

Continuation of Charges

Page No: 18 of 27

Person charged:

Ian Cook, [REDACTED]

Details of the charge against you				
What is the charge?	<p>(30) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 6(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> Food was not stored in a way that it was protected from the likelihood of contamination, in that inside 'Freezer 6', a trolley was observed containing a food product which appeared to be a baked product that was not covered or protected from contamination.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(31) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 12(2)(a) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> Oven units were installed in an area near the rear of the premises, in the area between the wall of the internal rooms within the warehouse and the roller door. These ovens were located and installed in a manner that they would cause food contamination. Dishwashing sinks were located in the same area where food is processed, increasing the risk of food being cross contaminated. A white hose in the hand wash basin in the main kitchen could potentially cross contaminate the hand wash basin and obstruct use.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 19			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	231 [REDACTED]	
Signature of Registrar:	[REDACTED]		Date:	
Filed at:	MELBOURNE	Date: 23 MAY 2019		

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Details of the charge against you				
What is the charge?	(32) On 20 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 12(2)(b) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Equipment, being a plastic container was secured to plastic crates with plastic quick ties that could not be removed for cleaning, meaning the equipment could not be easily and effectively cleaned.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				

Details of the charge against you				
What is the charge?	(33) On 21 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 19(2) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Trolleys in an unclean condition were observed throughout the premises and were in various states of wear, including in the main food preparation areas as well as the cool rooms and freezer. Dust and debris was visible on the ceiling and wall surfaces, as well as fittings and fixtures. Included a speaker in the main food preparation area and a large piece of debris hanging from the ceiling in the hospital food preparation area above a food preparation bench. A gap between food preparation bench surfaces was observed to have a build up of debris and residue in the hospital food preparation area. Dust and debris was observed on the ceiling and fan units above the food preparation bench in the hospital food preparation area. A build up of moisture was observed in the light fitting in the hospital food preparation area. There was a roll of plastic wrap being stored on a shelf beneath a food preparation bench, which was observed to have debris and residue present on the surface of the plastic. In the butcher area, debris and residue was observed on the surfaces of food preparation equipment identified as being clean. Yellow waste bins stored in the main food preparation area were in an unclean condition. Unclean food preparation trays were observed to be placed on top of a yellow waste bin. Wall mounted documents above a food preparation bench near the scullery area were observed to be in an unclean condition. Residue was present on the shelving used for food storage in the main food preparation area. Debris and residue was observed to be present on food handling containers.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				

Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 20			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	c/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	[REDACTED]	
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Rule 11

Continuation of Charges

Page No: 20 of 27

Person charged: Ian Cook, [REDACTED]

Details of the charge against you			
What is the charge?	<p>(34) On 21 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 17(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The hand wash basin next to the mincing benches was partially obstructed with equipment. Easily accessible hand washing facilities were not maintained. The hand wash basin in the</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984 Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Details of the charge against you			
What is the charge?	<p>(35) On 21 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 8 of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> Lighting provided in the corner where the mincing units were located was not sufficient for areas where food handling is occurring.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984 Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 21		
Signature of Informant:	[REDACTED]		
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019

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Details of the charge against you				
What is the charge?	(36) On 21 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 21(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Worn chopping boards were observed to be stored in the plating/packing area. A damaged knife was observed to be stored on a food preparation bench. A large tub of water used in the process of making soup was in a poor state of wear. A worn chopping board was observed to have been used to cur food product, possibly egg, with visible pieces of the chopping board peeling.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(37) On 21 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> All necessary steps to prevent the likelihood of food being contaminated were not taken in that a worn chopping board was observed to have been used to cut food product, possibly egg with visible pieces of the chopping board peeling.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 22			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	[REDACTED]	
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Rule 11

Continuation of Charges

Page No: 22 of 27

Person charged: Ian Cook, [REDACTED]

Details of the charge against you			
What is the charge?	<p>(38) On 21 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 19(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The premises was not maintained to the standard of cleanliness required. The flooring in the main food preparation area was observed to be in an unclean condition, specifically beneath the shelving and behind cooking equipment. Plastic pieces present on the flooring beneath the texture modified food equipment ("Multivac").</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984
	Section or Clause 16(1)		
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Details of the charge against you			
What is the charge?	<p>(39) On 22 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The premises was not maintained to the standard of cleanliness required. A number of plastic wall storage units had a build up of debris behind them, particularly on the wall outside the scullery area and on the wall within the hospital food preparation area. The wall surfaces in the scullery area were damaged, in an unclean condition and were not smooth. In the hospital food preparation area, the silicone join between the wall and sink was in an unclean condition, was not smooth and was peeling. The wall surface behind the ozone dispensing unit was in an unclean condition with a build up of dirt and residue present. The door and surrounding wall of 'Freezer 1' had a build up of dust and debris present on the surfaces. There was observed to be spilled food product on the ground in front of a waste bin in the loading bay / car park area.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984
	Section or Clause 16(1)		
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 23		
Signature of Informant:	[REDACTED]		
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019
Filed at :	MELBOURNE	Date:	23 MAY 2019

A10

Details of the charge against you			
What is the charge?	<p>(40) On 22 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> All fixtures, fitting and equipment were not maintained to the required standard of cleanliness. There were a number of drawers beneath benches throughout the premises that had a build up of water within them. There was a build up of dirt, debris, residue and other matter on a number of fittings. Unclean plastic stripping on a number of doors. In the plating/packing area – a gap between the hand wash basin and wall was not sealed and was observed to have debris accumulation. PVC/plastic covers over cables hanging from the ceiling were split and dust and debris was visibly accumulating. In the butcher area, debris and residue was observed to be present on the surface of the large slicer unit. Dust was observed on a number of ceiling mounted fixtures in the butcher area. In the main food preparation area, the wall mounted speaker directly above the scullery door had a build up of dust present. The internal and external surfaces of the deep fryer units had a build up of debris and grease. Unclean food handling equipment was stored in the area designated for the storage of clean equipment. A large amount of equipment was being stored in the scullery area. There was an odour. Many items had food residue present. The wall mounted speaker next to the door to the plating/packing area had a build up of dust present. In the chemical storage room, bulk chemical containers were being stored on shelving in an unclean condition. Damaged and unclean food storage trolleys were observed in use.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984
	Section or Clause 16(1)		
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 24		
Signature of Informant:	[REDACTED]		
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019

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Details of the charge against you				
What is the charge?	(41) On 22 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The food premises and all fixtures, fittings and equipment was not maintained in a good state of repair having regard to their use. In the plating/packing area, one of the pieces of food processing equipment was observed to have a cracked/damaged screen. In the butcher area, the surface of the large mixing unit was worn and chipping, with peeling tape observed on the handle. Damaged and worn equipment and fixtures were observed in the main food preparation area. The right hand bowl of the cleaning sink in the scullery area had a broken drain insert. A broken blue container was being stored in the scullery area. A damaged food storage container was observed in 'Fridge 2'.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No - See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review - special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(42) On 13 March 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The food premises was not maintained to the required standard of cleanliness. Spilt food product was seen on the floor underneath the shelving unit in the holding refrigerated room. Sticker labels stuck to the floor in the holding refrigerated room. Build up of dirt on the wall immediately above the splashback in the scullery area. In the scullery area - orange stained walls from the rust beneath the bench; black mould growing where two wall panels joined.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No - See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review - special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 25			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	[REDACTED]	
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Form 2

Rule 11

Continuation of Charges

Page No: 25 of 27

Person charged: Ian Cook, [REDACTED]

Details of the charge against you				
What is the charge?	<p>(43) On 13 March 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> All fixtures, fitting and equipment were not maintained to the required standard of cleanliness. Plastic observed on trolley wheels in the vegetable room (formerly sandwich room). Blue shelving unit in the corridor from the butchery area – there was a build up of dirt on the floor and coving.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(44) On 13 March 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The food premises and all fixtures, fittings and equipment was not maintained in a good state of repair having regard to their use. Deteriorated and damaged floor next to the coving at the doorway where the exposed concrete had blackened from the dirt. Worn flooring where the paint had been removed from wear in vegetable room. Floor surface rough in finish that had not been rendered smooth next to the coving. Floor located behind the bowl cutter - the repaired floor surface was rough where it had been repaired. Pieces of the sealant on the floor surface next to the coving missing and exposing the concrete, creating an area where water could pool and support the growth of pathogens. White coving now brown in colour from dirt that had not been cleaned in some time. In the scullery area – silicon seal had been removed along the splashback/wall junction where the benches were located, exposing the rusting edges of the metal panels that lined the walls. Rusting wall at the floor junction underneath the bench in the scullery area. In the main kitchen – deteriorated flooring under the cooking equipment where the floor surface had cracked, paint flaking off and under the hand basin the concrete was exposed and no longer sealed. In the main kitchen – floor surface e lifting off the concrete underneath the bench located at the well next to the dishwashing room.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 26			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council		Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[REDACTED]
Email	[REDACTED]		Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]		Date:	
Filed at:	MELBOURNE		Date:	23 MAY 2019 23 MAY 2019

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Form 2

Rule 11

Continuation of Charges

Page No: 26 of 27

Person charged: Ian Cook, [REDACTED]

Details of the charge against you			
What is the charge?	<p>(45) On 14 March 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The food premises and all fixtures, fittings and equipment was not maintained in a good state of repair having regard to their use. Cool room next to the dry store with a crack in the floor surface. Dishwasher room with rusting surfaces on the edge of the metal sheets that lined the walls of the room. Trowel marks in the flooring that had been repaired underneath the hand wash basin that was not rendered smooth and impervious.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984 Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Details of the charge against you			
What is the charge?	<p>(46) On 14 March 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The food premises was not maintained to the required standard of cleanliness. Cool room located off the meals on wheels area with spilt food product on the floor. Dirty coving underneath a hand wash basin located next to the cooking equipment in the main kitchen. Dirty coving behind the bowl cutter in the butchery area.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984 Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 27		
Signature of Informant:	[REDACTED]		
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019
Filed at :	MELBOURNE	Date:	23 MAY 2019

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Details of the charge against you				
What is the charge?	(47) On 27 February 2019, the Accused was the Director of I Cook Foods Pty Ltd, the proprietor of the food business located at 2/12 Zenith Road, Dandenong South which did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> An audit undertaken by [REDACTED] DHHS Accredited Auditor identified that the Food Safety Program is not compliant.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(48) Between 20 February 2019 to 21 February 2019, the Accused, at Dandenong South contravened an order made under section 19(2) of the Food Act 1984. <u>Particulars:</u> A hand wash basin in the hospital food preparation area was required in an order made under section 19(2) of the Food Act 1984 on 19 February 2019 to be turned on and functional at all times on and from 19 February 2019. Inspections of the premises revealed that the hand was basin was not functional at the time of inspection.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 19(7)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	c/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	[REDACTED]	
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

A10

Bring this with you to Court

FORM 4

Rule 11

CHARGE-SHEET AND SUMMONS (CORPORATE ACCUSED)

TO THE CORPORATE ACCUSED:	Registration Number: ACN 094 392 060	State: Vic
I Cook Foods Pty Ltd ACN 094 392 060 Factory 2, 12 Zenith Road Dandenong South VIC 3175		

You have been charged with an offence. Read these pages to see what you must do.

Details of the charge against you	
What is the charge?	(1) On or about 22 February 2019, at Dandenong South, the Accused sold to Whitehorse City Council food that was unsuitable. <u>Particulars:</u> Vegetable satay and peanut garnish was sold to Whitehorse City Council for its 'meals on wheels' service. Sampling of the food returned a positive test result for the presence of Listeria monocytogenes in the food.

If you do not appear in answer to a summons and the charge is an indictable offence that may be determined summarily the Magistrates' Court may hear and determine the charge in your absence. If you do not appear in answer to a summons for an indictable offence the Magistrates' Court may conduct a committal proceeding in your absence.

Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 12(2)
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence)			
	<input type="checkbox"/> Enforcement Review <input type="checkbox"/> Infringements Act 2006 section 40		<input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Other (specify)	
Date of Service by the Director Fines Victoria				
Are there more charges?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes - see 'Continuation of Charges' attached			
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			

Who filed the charge-sheet(s)?			
Informant	Leanne Johnson		
Agency	Greater Dandenong City Council C/- Russell Kennedy Lawyers	Agency Ref:	[REDACTED]
Address	PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]
Email	[REDACTED]	Fax No:	[REDACTED]
Signature of Informant	[REDACTED]	Date:	22/5/19
Filed at:	MELBOURNE	Date:	23 MAY 2019

Where will the case be heard?				
Where you must go	The Magistrates' Court at Dandenong			
Address	35 Pultney Street, Dandenong	Phone No:	(03) 9767 1300	
When	Time 9:30 am	Day 1st	Month August	Year 2019

Details about this summons	
Issued at	Melbourne Magistrates' Court
Issued By (Signature)	[REDACTED]
Date	23 MAY 2019
	<input checked="" type="checkbox"/> Registrar <input type="checkbox"/> Magistrate <input type="checkbox"/> Prescribed Person

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Details of the charge against you				
What is the charge?	(2) On or about 22 February 2019, at Dandenong South, the Accused in the course of carrying on a food business supplied food by way of sale to Whitehorse City Council that was not of the nature or substance demanded by the purchaser. <u>Particulars:</u> Vegetable satay and peanut garnish food was sold to Whitehorse City Council for its 'meals on wheels' service. Sampling of the food returned a positive test result for the presence of Listeria monocytogenes in the food. Whitehorse City Council demanded the supply of food that complies with the Food Act 1984.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 14(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(3) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> All necessary steps to prevent the likelihood of food being contaminated were not taken. Staff using a hose to pressure wash food handling equipment and food preparation surfaces in close proximity to food handling activities. Water and aerosols from this activity were being distributed in the area, with the contamination of the food handling processes and surfaces likely to have occurred. Cleaning staff were observed pressure washing the bank of ovens, then moving back through the area, pressure washing the food preparation benches. Cleaning was observed to be done in such a way that as the staff moved through the food preparation area, the air flow and their method/direction of cleaning caused the spray from the pressure washing hose to re-contaminate the equipment that had already been cleaned. A staff member observed working on weighing and packaging mixed potato was observed to be wearing a loose necklace that repeatedly came untucked from her clothing. Waste bins were observed to be stored in close proximity to food processing, packaging and/or handling equipment.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 3			
Signature of Informant:				
Agency	Greater Dandenong City Council	Agency Ref:		
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:		
Email		Fax No:		
Signature of Registrar:			Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019	

A10


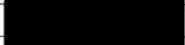
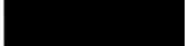

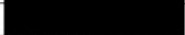

Form 2

Rule 11

Continuation of Charges

Page No: 3 of 27

Person charged: I Cook Foods Pty Ltd ACN 094 392 060, Factory 2, 12 Zenith Road, Dandenong South VIC 3175

Details of the charge against you			
What is the charge?	<p>(4) On the 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 21(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The floor in the premises was not maintained in a good state of repair and working order having regard to its use. The flooring throughout the premises was in an advanced state of wear, with large sections of flooring worn away, chipped, cracked and broken. Loose pieces of flooring were observed in a number of food preparation areas. All fixtures, fittings and equipment were not maintained in a good state of repair and working order having regard to their use. Plastic door stripping at doors was in a damaged condition. A large soaking unit in the main food preparation area was broken and was full of waste water that contained visible grease and food particles. A stainless steel topped food preparation bench was observed to have a damaged and deteriorated chipboard base underneath. Several chopping boards were in varying states of repair. In the scullery area, the silicone joint between the wall surfaces and the bench top were in an advanced state of wear. Worn/damaged containers and jugs present in the plating/packing area. The wall surfaces in the scullery area were damaged and were not smooth.</p>		
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984 Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence		
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)		
Date of Service by the Director Fines Victoria			
Are there more charges?	<input type="checkbox"/> No / <input checked="" type="checkbox"/> Yes - see page no. 4		
Signature of Informant:			
Agency	Greater Dandenong City Council	Agency Ref:	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	
Email		Fax No:	
Signature of Registrar:		Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019

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Details of the charge against you				
What is the charge?	<p>(5) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(2) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> A build up of dirt, debris, residue and other matter was observed on a number of fittings, fixtures and equipment throughout the premises. Trolleys in an unclean condition were observed throughout the premises. A number of the sets of plastic door stripping at doors were in an unclean condition. Accumulation of debris and food residue on chopping boards. Visible residue on open box of food handling gloves. Unclean and worn/damaged containers and jugs present in the plating/packing area. Debris and residue observed on a number of stainless steel trays. An accumulation of dust and debris on the fan unit an ceiling within the hospital food preparation area. In the scullery area, the mechanical exhaust hood was in an unclean condition with debris visible on the surface.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(6) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 15(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> A food handler when engaging in a food handling operation did not take all practicable measures to ensure that anything he or she is wearing does not contaminate food or surfaces likely to come into contact with food – a staff member working on weighing and packaging mixed potato was observed to be wearing a loose necklace that repeatedly came untucked from her clothing.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 5			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council		Agency Ref:	[Redacted]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[Redacted]
Email	[Redacted]		Fax No:	[Redacted]
Signature of Registrar:	[Redacted]		Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

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Form 2

Rule 11

Continuation of Charges

Page No: 5 of 27

Person charged: I Cook Foods Pty Ltd ACN 094 392 060, Factory 2, 12 Zenith Road, Dandenong South VIC 3175

Details of the charge against you				
What is the charge?	<p>(7) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 15(2)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> A staff member was observed weighing mixed potato, then moving the scales and touching other surfaces and then returning to working with the mixed potato without washing her hands when her hands were likely to be a source of contamination of food.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(8) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 15(3)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> A staff member was observed weighing mixed potato, then moving the scales and touching other surfaces and then returning to working with the mixed potato without washing her hands when her hands when she should have washed her hands before re-commencing handling food.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 6			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council	Agency Ref:	[Redacted]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[Redacted]	
Email	[Redacted]	Fax No:	[Redacted]	
Signature of Registrar:	[Redacted]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Details of the charge against you				
What is the charge?	<p>(9) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 13 of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> A food handler did not take all reasonable measures not to handle food or surfaces likely to come into contact with food in a way that is likely to compromise the safety and suitability of food, in that a staff member cleaning the food preparation benches with a sponge was observed to drop the sponge on the floor and then pick up the sponge from the floor and then continue using the sponge to clean the benches.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(10) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 24(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> A live animal (a slug) was observed on the floor of the food preparation area where food products were being stored.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 7			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council		Agency Ref:	[Redacted]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[Redacted]
Email	[Redacted]		Fax No:	[Redacted]
Signature of Registrar:	[Redacted]		Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

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Details of the charge against you				
What is the charge?	(11) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 24(1)(b) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> All practicable measures to prevent pests from entering the food premises were not taken – a live slug was observed on the floor of the food preparation area.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(12) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The food premises was not maintained to the required standard of cleanliness. Water was observed to be ponding on the floor beneath food storage containers in the food storage area, as well as beneath trolleys storing equipment on the flooring in front of the blast chillers within the main production area. In the hospital food preparation area, the silicone joint between the wall and bench surfaces behind the bowl sink was in an unclean and worn state. The wall surfaces in the scullery area were damaged, in an unclean condition. In the scullery area, the silicone joint between the wall surfaces and the bench top was in an advanced state of wear and was unclean. In the scullery area, there was an accumulation of food residue, dirt and debris on the flooring beneath the dishwashing unit. There was a general build-up of debris and food residue on the flooring of the cool rooms.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 8			
Signature of Informant:				
Agency	Greater Dandenong City Council	Agency Ref:		
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:		
Email		Fax No:		
Signature of Registrar:			Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019	

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Details of the charge against you				
What is the charge?	(13) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 10(2)(c) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Floors were laid such that there was ponding of water. Water was observed ponding on the floor beneath food storage containers in the food storage area, as well as beneath trolleys storing equipment on the flooring in front of the blast chillers within the main production area.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(14) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 17(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Easily accessible hand washing facilities were not maintained. The hand wash basin in the hospital food preparation area was observed to be not functional. In the plating/packing area, the two hand wash basins in the area were located at opposite ends of the work area and both were obstructed with pieces of equipment, preventing staff from gaining easy access for hand washing.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 9			
Signature of Informant:				
Agency	Greater Dandenong City Council	Agency Ref:		
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:		
Email		Fax No:		
Signature of Registrar:			Date:	23 MAY 2019
Filed at:	MELBOURN	Date:	23 MAY 2019	

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Details of the charge against you				
What is the charge?	(15) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 17(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> A supply of warm running water was not maintained at the hand wash basin in the hospital food preparation area. The hand wash basin was observed not to be functional.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(16) Between 18 February 2019 and 22 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 12(2)(b) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> In the scullery area, there was a high pressure hose observed tied to the legs of the bench in a manner that it did not allow it to be removed for cleaning.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 10			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council C/- Russell Kennedy Lawyers		Agency Ref:	[Redacted]
Address	PO Box 5146 Melbourne Vic 3001		Phone No:	[Redacted]
Email	[Redacted]		Fax No:	[Redacted]
Signature of Registrar:	[Redacted]		Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

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Person charged: I Cook Foods Pty Ltd ACN 094 392 060, Factory 2, 12 Zenith Road, Dandenong South VIC 3175

Details of the charge against you				
What is the charge?	(17) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with Standard 1.2.5 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Pouches of Scotch Broth Soup were stored in bread crates within a cool room and were labelled with the production date being "18/2" with a use by of "48 Hours from Delivery", when an actual use by date needs to be specified.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(18) Between 18 February 2019 and 22 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 12(1)(b) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Equipment was not fit for its intended use, in that a large number of yellow crates were being used for the storage of bagged food products. The crates were of a construction that had holes and gaps in the surfaces that did not allow for effective cleaning of the crates.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 11			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council	Agency Ref:	[Redacted]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[Redacted]	
Email	[Redacted]	Fax No:	[Redacted]	
Signature of Registrar:	[Redacted]	Date:	23 MAY 2019	
Filed at:	MELBOURN	Date:	23 MAY 2019	

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Form 2

Rule 11

Continuation of Charges

Page No: 11 of 27

Person charged: I Cook Foods Pty Ltd ACN 094 392 060, Factory 2, 12 Zenith Road, Dandenong South VIC 3175

Details of the charge against you				
What is the charge?	(19) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 6(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Food was not stored in such a way that it was protected from the likelihood of contamination. In the cool rooms, there were a number of trolleys containing uncovered food products, including meat products, gravy, carrot, cauliflower and what appeared to be an egg mix. In the warehouse, a damaged can of vegetable oil was observed stored on a crate amongst other cans of oil.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(20) Between 18 February 2019 and 22 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 13(2) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The condensate outlets for the cool rooms were not connected to a sewage and wastewater disposal system. The condensate was piped to the wall directly adjacent to the loading bay and car park, where the water was being discharged directly onto the pavement and was flowing across this space to pool beneath parked cars and stacks of wooden pallets			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 12			
Signature of Informant:				
Agency	Greater Dandenong City Council	Agency Ref:		
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:		
Email		Fax No:		
Signature of Registrar:			Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019	

A10

Details of the charge against you				
What is the charge?	(21) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 6(a) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Adequate garbage storage facilities were not provided to adequately contain the volume and type of garbage and recyclable matter on the food premises – an uncovered and overloaded waste bin was being stored in the outside area.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(22) On 18 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 17(1)(d)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Single use towels or other means of effectively drying hands were not provided in the staff toilets.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 13			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council	Agency Ref:	[Redacted]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[Redacted]	
Email	[Redacted]	Fax No:	[Redacted]	
Signature of Registrar:	[Redacted]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

A10

Details of the charge against you				
What is the charge?	<p>(24) On 20 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 7(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> All necessary steps to prevent the likelihood of food being contaminated were not taken. During the cleaning process, staff members were observed cleaning in a manner that was likely re-contaminating surfaces that had already been cleaned. A pressure hose was being used to wash down unclean benches, however this was being done in such a manner as the spray was aimed in the direction of those benches that had already been cleaned. Waste bins were observed to be stored in close proximity to food processing, packaging and/or handling equipment.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 15			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council		Agency Ref:	[Redacted]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[Redacted]
Email	[Redacted]		Fax No:	[Redacted]
Signature of Registrar:	[Redacted]		Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

A10

Details of the charge against you				
What is the charge?	<p>(25) On 20 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 21(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The premises, all fixtures, fittings, and equipment, having regard to their use were not maintained in a good state of repair and working order having regard to their use. The surface of the large mixing unit in the butcher area was in a state of wear, with the surface observed to be peeling off. In the main food preparation area, there was a stainless steel food tray containing a green liquid on the floor below the texture modified meal forming machine – the machine had a coolant leak and the tray was collecting the fluid. Tub of water located directly next to the cook tops was in a poor state of wear, as was the jug that was being stored on the side of the tub. Several chopping boards in varying states of wear – some had surface peeling and deep gouges. The lid of the bulk sugar container was broken, with a section of the plastic lid missing. Worn and damaged food handling equipment was observed in the scullery area. A number of food handling utensils stored in the scullery area were in an advanced state of deterioration, worn and damaged. The belt on the conveyor belt for sandwiches had visible damage to its surface. Tub on trolley observed to be broken with large sections of plastic coming away at the top of the tub. Deteriorated wooden handle on a metal spatula sitting in a plastic container.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 16			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council		Agency Ref:	[Redacted]
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Phone No:	[Redacted]
Email	[Redacted]		Fax No:	[Redacted]
Signature of Registrar:	[Redacted]		Date:	23 MAY 2019
Filed at:	MELBOURNE	[Redacted]	Date:	23 MAY 2019

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Form 2

Rule 11

Continuation of Charges

Page No: 17 of 27

Person charged: I Cook Foods Pty Ltd ACN 094 392 060, Factory 2, 12 Zenith Road, Dandenong South VIC 3175

Details of the charge against you				
What is the charge?	(28) On 20 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 17(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Easily accessible hand washing facilities were not maintained. The hand wash basin in the hospital food preparation area was observed to be not functional.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(29) On 20 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 17(1)(b)(i) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> A supply of warm running water was not maintained at the hand wash basin in the hospital food preparation area. The hand wash basin was observed not to be functional.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 18			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council	Agency Ref:	[Redacted]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[Redacted]	
Email	[Redacted]	Fax No:	[Redacted]	
Signature of Registrar:	[Redacted]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

A10

Details of the charge against you				
What is the charge?	(30) On 20 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 6(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Food was not stored in a way that it was protected from the likelihood of contamination, in that inside 'Freezer 6', a trolley was observed containing a food product which appeared to be a baked product that was not covered or protected from contamination.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(31) On 20 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 12(2)(a) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Oven units were installed in an area near the rear of the premises, in the area between the wall of the internal rooms within the warehouse and the roller door. These ovens were located and installed in a manner that they would cause food contamination. Dishwashing sinks were located in the same area where food is processed, increasing the risk of food being cross contaminated. A white hose in the hand wash basin in the main kitchen could potentially cross contaminate the hand wash basin and obstruct use.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 19			
Signature of Informant:				
Agency	Greater Dandenong City Council	Agency Ref:		
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:		
Email		Fax No:		
Signature of Registrar:			Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

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Form 2

Rule 11



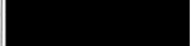


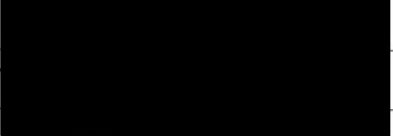
Continuation of Charges

Page No: 19 of 27

Person charged: I Cook Foods Pty Ltd ACN 094 392 060, Factory 2, 12 Zenith Road, Dandenong South VIC 3175

Details of the charge against you				
What is the charge?	(32) On 20 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 12(2)(b) of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Equipment, being a plastic container was secured to plastic crates with plastic quick ties that could not be removed for cleaning, meaning the equipment could not be easily and effectively cleaned.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(33) On 21 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(2) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Trolleys in an unclean condition were observed throughout the premises and were in various states of wear, including in the main food preparation areas as well as the cool rooms and freezer. Dust and debris was visible on the ceiling and wall surfaces, as well as fittings and fixtures. Included a speaker in the main food preparation area and a large piece of debris hanging from the ceiling in the hospital food preparation area above a food preparation bench. A gap between food preparation bench surfaces was observed to have a build up of debris and residue in the hospital food preparation area. Dust and debris was observed on the ceiling and fan units above the food preparation bench in the hospital food preparation area. A build up of moisture was observed in the light fitting in the hospital food preparation area. There was a roll of plastic wrap being stored on a shelf beneath a food preparation bench, which was observed to have debris and residue present on the surface of the plastic. In the butcher area, debris and residue was observed on the surfaces of food preparation equipment identified as being clean. Yellow waste bins stored in the main food preparation area were in an unclean condition. Unclean food preparation trays were observed to be placed on top of a yellow waste bin. Wall mounted documents above a food preparation bench near the scullery area were observed to be in an unclean condition. Residue was present on the shelving used for food storage in the main food preparation area. Debris and residue was observed to be present on food handling containers.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No / <input checked="" type="checkbox"/> Yes - see page no. 20			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council	Agency Ref:	[Redacted]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[Redacted]	
Email	[Redacted]	Fax No:	[Redacted]	
Signature of Registrar:	[Redacted]		Date:	23 MAY 2019
Filed at:	MELBOURNE	Date:	23 MAY 2019	

A10

Details of the charge against you				
What is the charge?	(34) On 21 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 17(1)(a) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The hand wash basin next to the mincing benches was partially obstructed with equipment. Easily accessible hand washing facilities were not maintained. The hand wash basin in the hospital food preparation area was observed to be not functional.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(35) On 21 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 8 of Standard 3.2.3 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> Lighting provided in the corner where the mincing units were located was not sufficient for areas where food handling is occurring.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 21			
Signature of Informant:				
Agency	Greater Dandenong City Council C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001		Agency Ref:	
Address			Phone No:	
Email			Fax No:	
Signature of Registrar:			Date:	23 MAY 2019
Filed at:	MELBOURNE		Date:	23 MAY 2019

A10

Details of the charge against you				
What is the charge?	<p>(38) On 21 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The premises was not maintained to the standard of cleanliness required. The flooring in the main food preparation area was observed to be in an unclean condition, specifically beneath the shelving and behind cooking equipment. Plastic pieces present on the flooring beneath the texture modified food equipment ("Multivac").</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	<p>(39) On 22 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> The premises was not maintained to the standard of cleanliness required. A number of plastic wall storage units had a build up of debris behind them, particularly on the wall outside the scullery area and on the wall within the hospital food preparation area. The wall surfaces in the scullery area were damaged, in an unclean condition and were not smooth. In the hospital food preparation area, the silicone joint between the wall and sink was in an unclean condition, was not smooth and was peeling. The wall surface behind the ozone dispensing unit was in an unclean condition with a build up of dirt and residue present. The door and surrounding wall of 'Freezer 1' had a build up of dust and debris present on the surfaces. There was observed to be spilled food product on the ground in front of a waste bin in the loading bay / car park area.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 23			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council	Agency Ref:	[Redacted]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[Redacted]	
Email	[Redacted]	Fax No:	[Redacted]	
Signature of Registrar:	[Redacted]			
Filed at:	MELBOURNE	Date:	23 MAY 2019	
		Date:	23 MAY 2019	

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Form 2

Rule 11

Continuation of Charges

Page No: 23 of 27

Person charged: I Cook Foods Pty Ltd ACN 094 392 060, Factory 2, 12 Zenith Road, Dandenong South VIC 3175

Details of the charge against you				
What is the charge?	<p>(40) On 22 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(2) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business.</p> <p><u>Particulars:</u> All fixtures, fitting and equipment were not maintained to the required standard of cleanliness. There were a number of drawers beneath benches throughout the premises that had a build up of water within them. There was a build up of dirt, debris, residue and other matter on a number of fittings. Unclean plastic stripping on a number of doors. In the plating/packing area – a gap between the hand wash basin and wall was not sealed and was observed to have debris accumulation. PVC/plastic covers over cables hanging from the ceiling were split and dust and debris was visibly accumulating. In the butcher area, debris and residue was observed to be present on the surface of the large slicer unit. Dust was observed on a number of ceiling mounted fixtures in the butcher area. In the main food preparation area, the wall mounted speaker directly above the scullery door had a build up of dust present. The internal and external surfaces of the deep fryer units had a build up of debris and grease. Unclean food handling equipment was stored in the area designated for the storage of clean equipment. A large amount of equipment was being stored in the scullery area. There was an odour. Many items had food residue present. The wall mounted speaker next to the door to the plating/packing area had a build up of dust present. In the chemical storage room, bulk chemical containers were being stored on shelving in an unclean condition. Damaged and unclean food storage trolleys were observed in use.</p>			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 24			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council	Agency Ref:	[Redacted]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[Redacted]	
Email	[Redacted]	Fax No:	[Redacted]	
Signature of Registrar:	[Redacted]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	



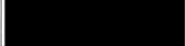
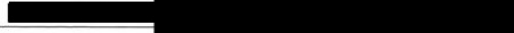

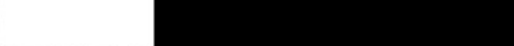
A10

Details of the charge against you				
What is the charge?	(41) On 22 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 21(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The food premises and all fixtures, fittings and equipment was not maintained in a good state of repair having regard to their use. In the plating/packing area, one of the pieces of food processing equipment was observed to have a cracked/damaged screen. In the butcher area, the surface of the large mixing unit was worn and chipping, with peeling tape observed on the handle. Damaged and worn equipment and fixtures were observed in the main food preparation area. The right hand bowl of the cleaning sink in the scullery area had a broken drain insert. A broken blue container was being stored in the scullery area. A damaged food storage container was observed in 'Fridge 2'.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(42) On 13 March 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The food premises was not maintained to the required standard of cleanliness. Spilt food product was seen on the floor underneath the shelving unit in the holding refrigerated room. Sticker labels stuck to the floor in the holding refrigerated room. Build up of dirt on the wall immediately above the splashback in the scullery area. In the scullery area - orange stained walls from the rust beneath the bench; black mould growing where two wall panels joined.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 25			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council	Agency Ref:	[Redacted]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[Redacted]	
Email	[Redacted]	Fax No:	[Redacted]	
Signature of Registrar:	[Redacted]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

A10

Details of the charge against you				
What is the charge?	(43) On 13 March 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(2) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> All fixtures, fitting and equipment were not maintained to the required standard of cleanliness. Plastic observed on trolley wheels in the vegetable room (formerly sandwich room). Blue shelving unit in the corridor from the butchery area – there was a build up of dirt on the floor and coving.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(44) On 13 March 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 21(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The food premises and all fixtures, fittings and equipment was not maintained in a good state of repair having regard to their use. Deteriorated and damaged floor next to the coving at the doorway where the exposed concrete had blackened from the dirt. Worn flooring where the paint had been removed from wear in vegetable room. Floor surface rough in finish that had not been rendered smooth next to the coving. Floor located behind the bowl cutter - the repaired floor surface was rough where it had been repaired. Pieces of the sealant on the floor surface next to the coving missing and exposing the concrete, creating an area where water could pool and support the growth of pathogens. White coving now brown in colour from dirt that had not been cleaned in some time. In the scullery area – silicon seal had been removed along the splashback/wall junction where the benches were located, exposing the rusting edges of the metal panels that lined the walls. Rusting wall at the floor junction underneath the bench in the scullery area. In the main kitchen – deteriorated flooring under the cooking equipment where the floor surface had cracked, paint flaking off and under the hand basin the concrete was exposed and no longer sealed. In the main kitchen – floor surface e lifting off the concrete underneath the bench located at the well next to the dishwashing room.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 26			
Signature of Informant:	[Redacted]			
Agency	Greater Dandenong City Council	Agency Ref:	[Redacted]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[Redacted]	
Email	[Redacted]	Fax No:	[Redacted]	
Signature of Registrar:	[Redacted]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

A10

Details of the charge against you				
What is the charge?	(45) On 14 March 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 21(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The food premises and all fixtures, fittings and equipment was not maintained in a good state of repair having regard to their use. Cool room next to the dry store with a crack in the floor surface. Dishwasher room with rusting surfaces on the edge of the metal sheets that lined the walls of the room. Trowel marks in the flooring that had been repaired underneath the hand wash basin that was not rendered smooth and impervious.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(46) On 14 March 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with clause 19(1) of Standard 3.2.2 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> The food premises was not maintained to the required standard of cleanliness. Cool room located off the meals on wheels area with spilt food product on the floor. Dirty coving underneath a hand wash basin located next to the cooking equipment in the main kitchen. Dirty coving behind the bowl cutter in the butchery area.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes - see page no. 27			
Signature of Informant:				
Agency	Greater Dandenong City Council	Agency Ref:		
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:		
Email		Fax No:		
Signature of Registrar:		Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

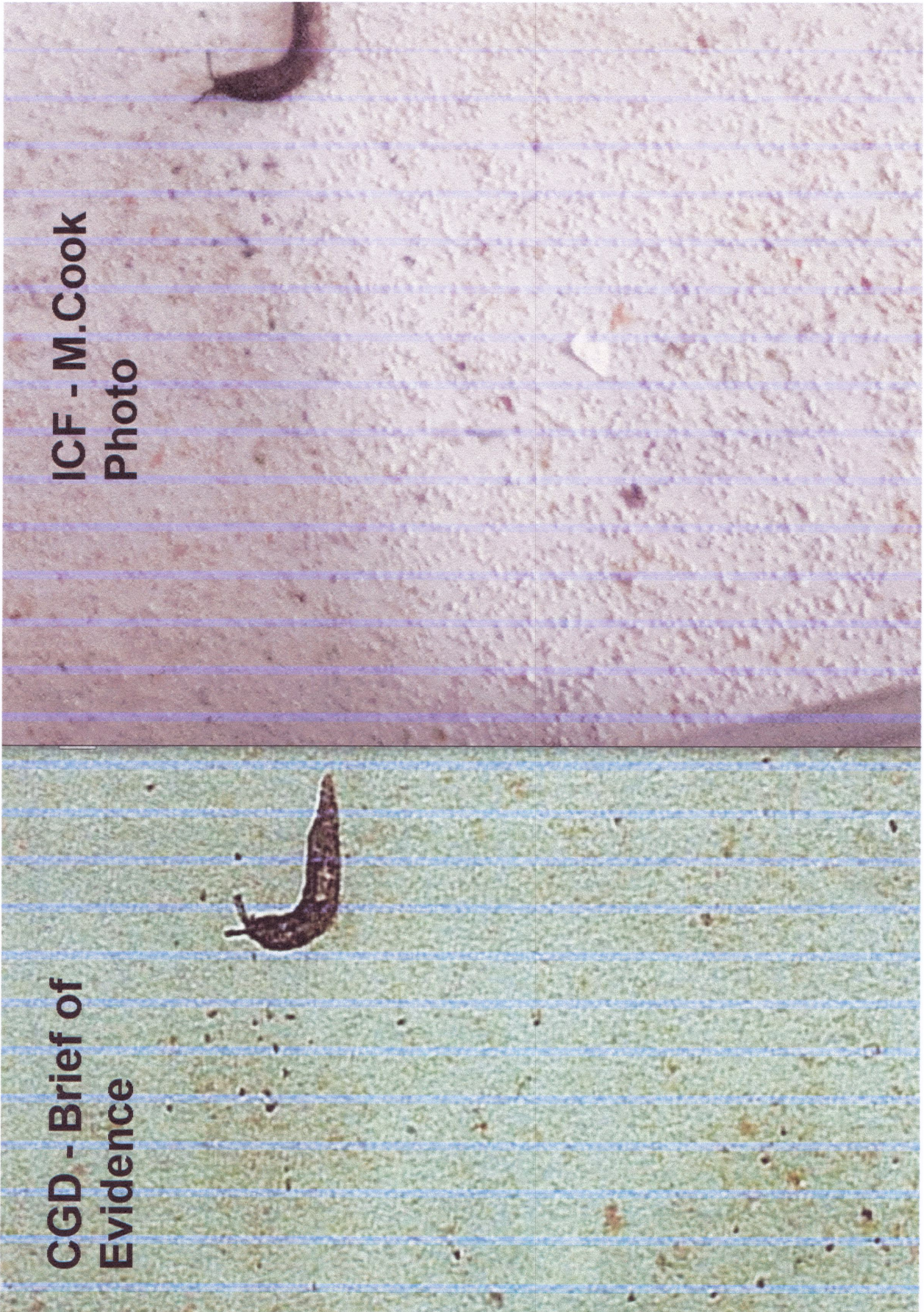
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Details of the charge against you				
What is the charge?	(47) On 27 February 2019, the Accused being the proprietor of the food business located at 2/12 Zenith Road, Dandenong South did fail to comply with Standard 3.2.1 of the Food Standards Code in relation to the conduct of the food business. <u>Particulars:</u> An audit undertaken by [REDACTED] DHHS Accredited Auditor identified that the Food Safety Program is not compliant.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 16(1)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Details of the charge against you				
What is the charge?	(48) Between 20 February 2019 to 21 February 2019, the Accused, at Dandenong South contravened an order made under section 19(2) of the Food Act 1984. <u>Particulars:</u> A hand wash basin in the hospital food preparation area was required in an order made under section 19(2) of the Food Act 1984 on 19 February 2019 to be turned on and functional at all times on and from 19 February 2019. Inspections of the premises revealed that the hand was basin was not functional at the time of inspection.			
Under what law?	<input checked="" type="checkbox"/> State <input type="checkbox"/> Commonwealth	<input checked="" type="checkbox"/> Act <input type="checkbox"/> Regulation <input type="checkbox"/> Other (specify)	Act or Regulation No. 10082/1984	Section or Clause 19(7)
Type of Offence	<input checked="" type="checkbox"/> Summary Offence <input type="checkbox"/> Indictable Offence			
Request for committal proceeding	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
Is this an infringement offence?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No – See below (Type of Offence) <input type="checkbox"/> Enforcement Review <input type="checkbox"/> Enforcement Review – special circumstances <input type="checkbox"/> Infringements Act 2006 section 40 <input type="checkbox"/> Other (specify)			
Date of Service by the Director Fines Victoria				
Are there more charges?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes -			
Signature of Informant:	[REDACTED]			
Agency	Greater Dandenong City Council	Agency Ref:	[REDACTED]	
Address	C/- Russell Kennedy Lawyers PO Box 5146 Melbourne Vic 3001	Phone No:	[REDACTED]	
Email	[REDACTED]	Fax No:	[REDACTED]	
Signature of Registrar:	[REDACTED]	Date:	23 MAY 2019	
Filed at:	MELBOURNE	Date:	23 MAY 2019	

A10

Appendix 11
**Allegations of planting evidence
(photo)**

A11



A11

Appendix 12
**Mr Bennie's standing Conflict
of Interest declaration**

A12

Key Management Personnel - Declaration Form

Key Management Personnel (KMP) Name: John Bennie

Position held by KMP: Non Executive Director From: 1 December 2017 To: Ongoing

Name (Individual and/or Entities)*	Nature of Relationship	Nature of Transaction ^	Additional Comments
Greater Dandenong City Council	Chief Executive Officer	Purchase of meals for Council clients	Nil
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

I declare that the above list includes all my close family members and the entities controlled, or jointly controlled, by myself or my close family members. I make this declaration after reading the "Related Party Disclosures Information Sheet". I understand that the information provided will be relied upon by Regional Kitchen Pty Ltd to prepare the Related Parties disclosure in the Annual Accounts.

Signature of KMP: [REDACTED]

Date: 21st August 2018

*Name - List details of :
 Close Family Members
 Entities which you control or jointly control
 Entities which your close family member controls or jointly controls

^Nature of Transactions
 If there are no transactions with the company, please still list names and state "Nil" or "Unknown" in this column.

Appendix 13
**State and Federal funding
of Community Chef**

Response to Questions on Notice Q1
 Provide a breakdown of all grants and funding received from the Federal, State and Local Governments, including when they were received

Funding Provided	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	Total
Federal Government														
Dept of Infrastructure, Transport & Regional Development Construction of Buildings		3,150,000	5,850,000											9,000,000
State Government														
D.H.H.S. - Capital Grant Construction of Buildings	6,000,000													6,000,000
D.H.H.S. - Revenue Grant					500,000									500,000
D.H.H.S. - Interest Free Loan					1,078,000	400,000		322,000	710,000	460,000		250,000	757,000	3,977,000
Local Government (Shareholder Councils)														
Share Capital Issues	2,250,000			400,000		90,000	290,000	20,000	360,000					3,410,000

TOTAL STATE FUNDING

\$ million

Repayable Funding (Department of Health and Human Services)

2012	1.038
2013	0.440
2015	1.492
2019	0.450
2020	0.557
	3.977

Other Funding

2008	State Treasury <i>(Terms: A reducing proportion is repayable if the entity is wound up. At 30 June 2020 that amount is \$2.4 million).</i>	6.0
2012	Department of Health and Human Services <i>(Non repayable).</i>	0.5
		6.5

Total State funding	\$10.477
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NOTE:

Payments are shown by calendar year.

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Appendix 14
Board Minutes 22 February 2019

A14

①

1.



Regional Kitchen & Community Chef
Joint Board Meeting

AGENDA

9.30AM, FRIDAY 22 FEBRUARY 2019

RACV CLUB

501 BOURKE ST MELBOURNE VIC 3000

(Meeting No.081)

	Item	
1.	Present Apologies Attendees	
2.	Confirmation of Minutes	<i>Minutes of the Board Meeting held 23 November 2018</i>

DISCLOSURE OF INTERESTS

Directors are required to disclose an "interest" in a decision if they would receive, or could be reasonably perceived to receive a direct or indirect financial or non-financial benefit or detriment from the decision.

In addition, Directors are required to declare, where they may have a conflict of interest, or they could reasonably be perceived to have a conflict of interest, with their employing organisation or any other directorships.

Disclosure must occur immediately before the matter is considered or discussed.

STANDING REPORTS

[Redacted]

[Redacted]

STANDING REPORTS

4.

CEO Overview

[REDACTED]

[REDACTED]

[REDACTED]

(Meeting suspended at 10.10am for [REDACTED] with [REDACTED] Meeting recommenced at 12.45pm)

[REDACTED]

J Bennie briefed the meeting on an emerging issue – Environmental Health Officers served a closure notice on iCook due to presence of Listeria. The DHHS order for closure was issued under the Health and Wellbeing Act and there will be a Coronial Inquest. The business is likely to be closed for at least a week. A DHHS statement, via the acting Chief Health Officer was issued on Friday Feb 22nd.

2:30 pm Media

STANDING REPORTS

4

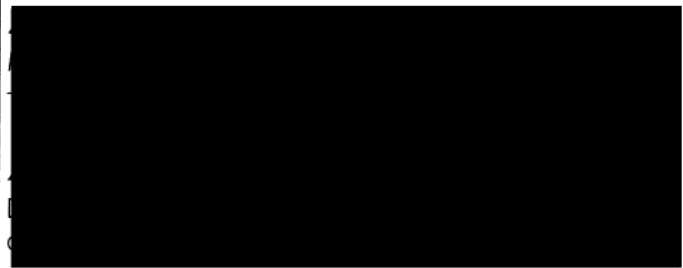
CEO Overview
(continued)

7.

In response to this situation, Community Chef's Quality Manager sent a communication to all Council customers highlighting that this was not a Community Chef product. Communication sent by social media and on the Website. The [REDACTED] was also contacted, advising that Community Chef can provide assistance where required.

In response to a question, the CEO confirmed that Community Chef has an Incident Management Register and disaster recovery procedure.

The CEO will also prepare a media communication in anticipation of media calls.



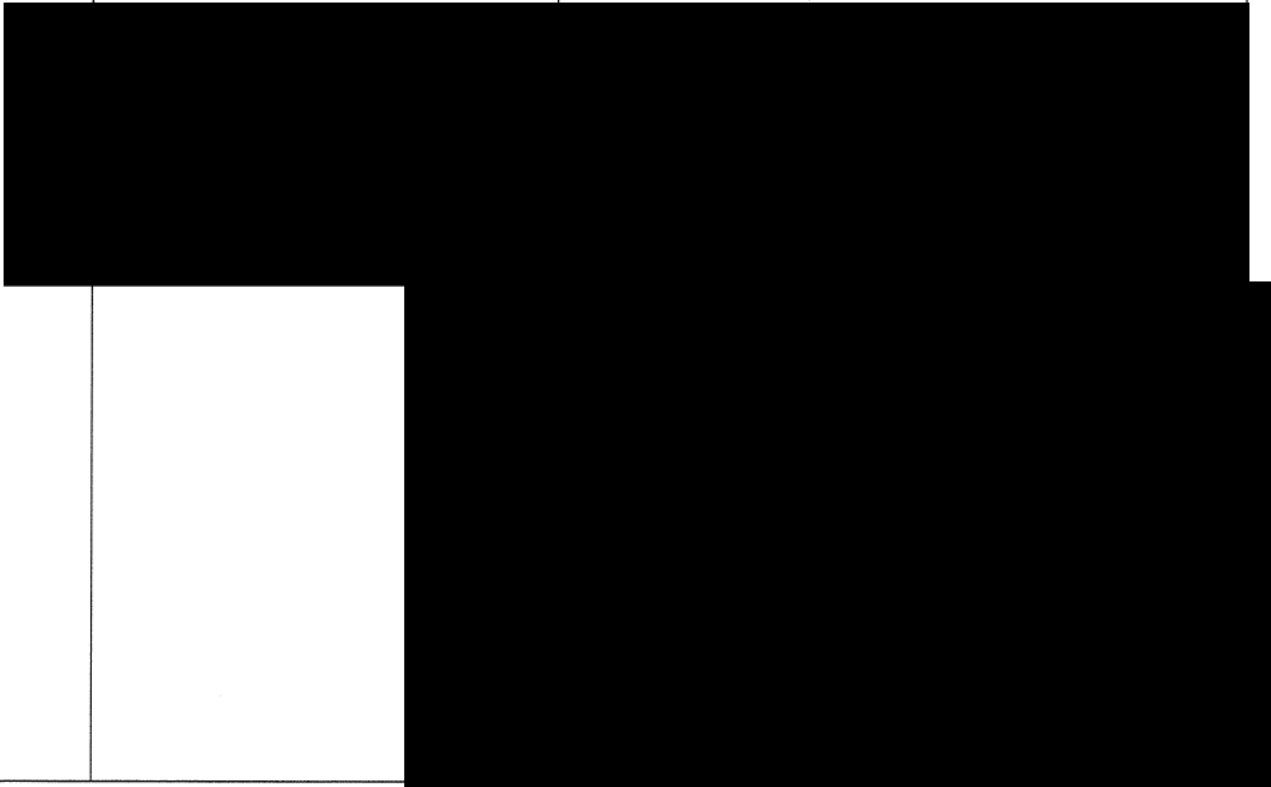
RESOLVED

That the CEO Overview Reports be accepted.

Moved: [REDACTED]

Seconded: [REDACTED]

CARRIED



STANDING REPORTS

[REDACTED]

[REDACTED]

[REDACTED]

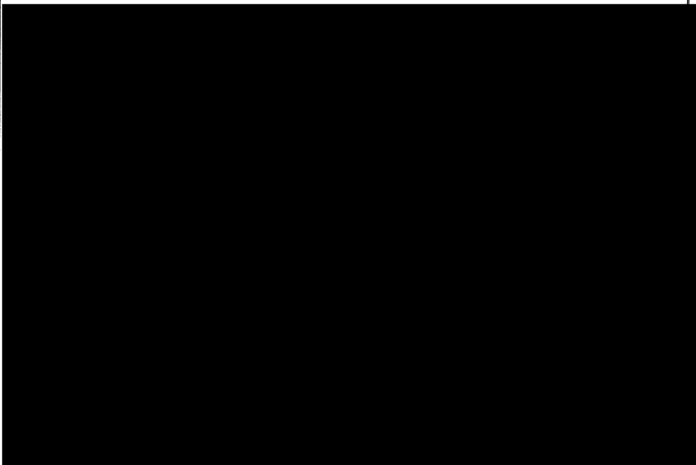
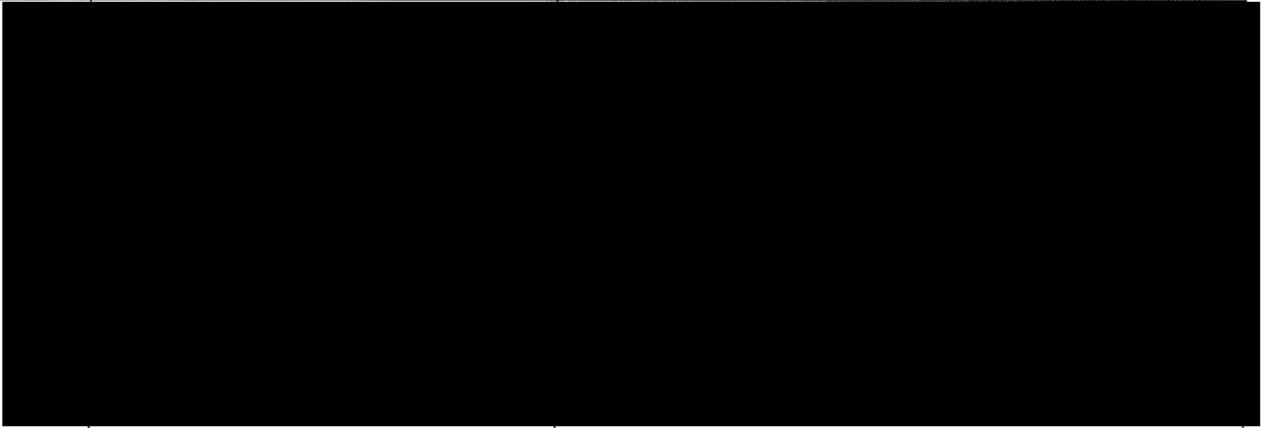
7.2 FY20 Business Plan

Overview and Assumptions

Discussion centred on the various equity scenarios – whether the State Government would buy in to the business or whether shareholder Councils should be asked to contribute further.

[REDACTED] suggested that investment from State Government would be more likely and that Councils would not be keen to increase their investment if their market share would be declining.

STANDING REPORTS

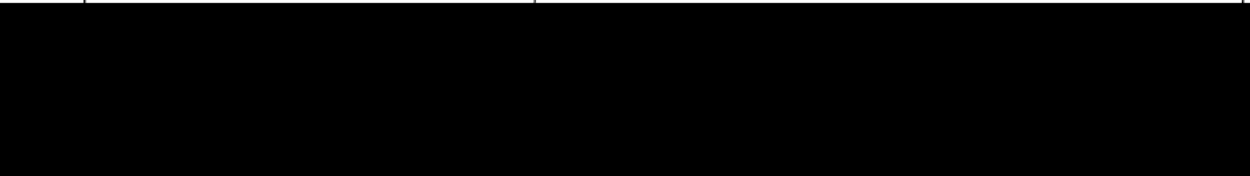


Moved: [REDACTED]

Seconded: [REDACTED]

CARRIED

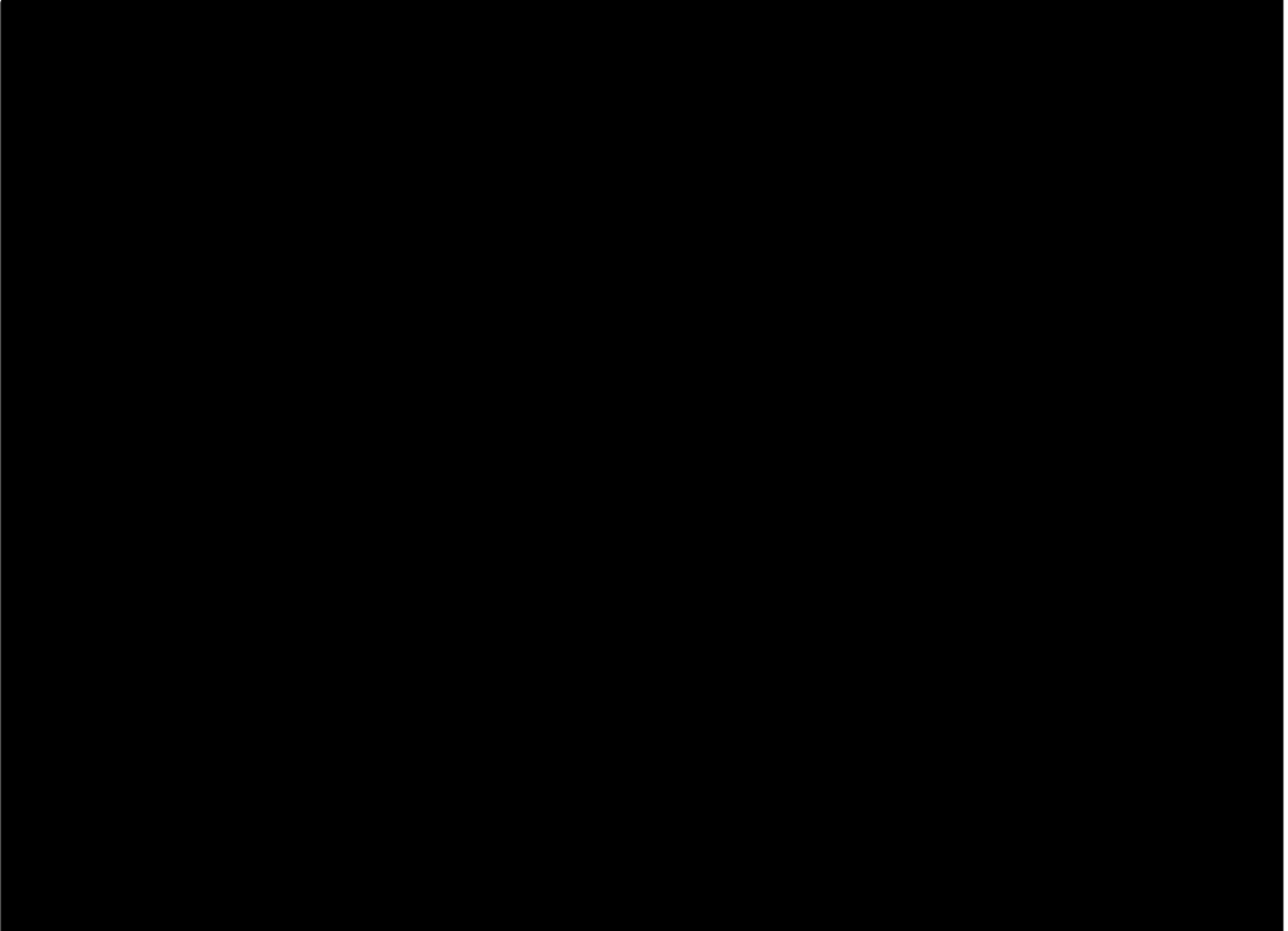
STANDING REPORTS



Meeting concluded at 2.00pm

day of April 2019

CHAIR



Appendix 15
**Email from Ombudsman regarding
investigation**

Tab 2

Mick Jaensch

From: [Redacted]
Sent: Wednesday, 24 July 2019 6:15 PM
To: [Redacted]
Subject: Victorian Ombudsman

Dear [Redacted]

I refer to your notification to the Independent Broad-based Anti-corruption Commission (IBAC) dated 9 May 2019 about allegations made by Ms Kim Rogerson. IBAC determined the matter was not a protected disclosure complaint and referred it to our office to consider.

I considered whether the matter should be investigated under the *Ombudsman Act 1973* (Vic).

Having reviewed the information provided by Ms Kim Rogerson and yourself, we will not be taking further action on this matter. I gave Ms Rogerson my reasons, which I set out in my email below to her (see below).

If you have any questions, please feel free to contact me.

Yours sincerely

[Redacted]
Investigation Officer



Level 2, 570 Bourke Street
MELBOURNE VIC 3000

[Redacted] | **Regional Callers (excl. mob.):** 1800 806 314
DX: 210174 Melbourne
<https://www.ombudsman.vic.gov.au>



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The Victorian Ombudsman acknowledges the traditional owners of country throughout Victoria and pays respect to them, their culture and their Elders past, present and future.

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From: [Redacted]
Sent: Wednesday, 24 July 2019 6:01 PM
To: Kim Rogerson [Redacted]
Subject: Your complaint about the City of Greater Dandenong

24 July 2019

File No: C/19/11438
DOC/19/54302

Sandra Kim Rogerson

A15

By email: [REDACTED]

Dear Ms Rogerson

Your complaint about the City of Greater Dandenong

I refer to your complaint, made to the Independent Broad-based Anti-corruption Commission (IBAC) on 9 May 2019, concerning the City of Greater Dandenong. As you are aware, IBAC determined that your disclosure was not a 'protected disclosure complaint' under the *Protected Disclosure Act 2012* (Vic), but referred the matter to this office for consideration.

My role has been to determine whether your complaint should be investigated under the *Ombudsman Act 1973* (Vic).

The concerns you raised are as follows:

- officers from the City of Greater Dandenong (the council) pressured you to falsify your statement to frame the food catering business, 'I Cook Foods'
- the council's Chief Executive Officer (CEO) has a conflict of interest because he is on the board of rival catering business, 'Community Chef'
- when you refused to falsify your statement, you became 'desk bound' and were taken off your normal duties, such as conducting off-site food inspections.

After speaking with you initially, I obtained documents from the council related to your concerns, including (but not limited to):

- the council's brief of evidence against 'I Cook Foods'
- draft and final versions of your witness statement
- information about the CEO's alleged conflict of interest.

I have briefly set out my consideration of each matter you have raised, below.

Falsification of documents

You mentioned that your statement was falsified because:

- your initial draft was only two pages long, but after the false evidence was included, the statement became about 11 pages long
- towards the end of the statement, [REDACTED], Coordinator Planning Compliance, wanted to include a paragraph stating that the food premises were not compliant with standards and you had verbally warned I Cook Food's general manager Mr Ben Cook about this. You said this was not true and that paragraph should not have been included.

On the face of the draft and final versions of your statement, it appears the changes made represent a natural progression from draft to final format. The first draft appears incomplete. In contrast, the final signed version appears complete and includes paragraphs about the types of swabs you obtained, how they were obtained and where the swabs were sent to. I have been unable to identify evidence to suggest that the expansion of your statement was due to other council officers falsifying the evidence.

There was no evidence in the brief to support your claim that the paragraph about the verbal warning given to Mr Cook was false. On the contrary, the brief sets out substantial other evidence (eg other witness statements, laboratory results) which appear to corroborate claims that the premises were non-compliant.

I understand there are legal proceedings on foot for which your statement may be tendered as relevant evidence. The council advised that it laid charges against I Cook Foods, and there are also media reports about legal action by I Cook Foods against the Department of Health and Human Services to claim compensation as a result of its closure. It would be appropriate for the parties to these matters to challenge the accuracy of your statement during these proceedings.

Conflict of interest

I reviewed records from the council which document the CEO's conflict of interest, as well as extracts from council meetings involving the companies in question.

The CEO's conflict of interest regarding I Cook Foods was documented in writing and the council appears to have taken steps to manage the conflict. For example, council minutes show that when the council discussed matters relating to I Cook Foods, the CEO left the room and was not involved in discussions or decisions on such matters.

I was unable to identify evidence demonstrating that the CEO made or influenced the decision to take prosecution proceedings against I Cook Foods. The merit of the council's prosecution of I Cook Foods will be a matter for the relevant court.

Your employment

You also mentioned that you made a WorkCover claim as a result of an injury you state you sustained while working at the council. I understand your claim was rejected and that conciliation will shortly follow. This is the appropriate forum for you to pursue this claim.

Under the Ombudsman Act, the Ombudsman is generally unable to deal with complaints about the conditions of employment. As such, there is no role for our office on this issue.

There are other bodies that are specially established to deal with grievances related to employment, such as the Fair Work Commission. If you would like to contact the Fair Work Commission, their contact details are as follows:

Fair Work Commission
Telephone: 1300 799 675
Email for the Victorian office: melbourne@fwc.gov.au

Conclusion

In the absence of compelling evidence to support the allegations you have made against the council, and given the other available forums to pursue your concerns, this office will not be undertaking an investigation into your complaint.

I appreciate you may be disappointed by my assessment. If you would like to discuss my assessment or you have any queries, please contact me on [REDACTED] or via email to [REDACTED]

Yours sincerely

[REDACTED]
Investigation Officer



Level 2, 570 Bourke Street
MELBOURNE VIC 3000

[REDACTED] | **Regional Callers (excl. mob.):** 1800 806 314

[REDACTED] | **F:** 210174 Melbourne

<https://www.ombudsman.vic.gov.au>



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A15

Appendix 16

Department of Health and Human Services email and timeline of closure

From: [REDACTED]
 Sent: Thursday, 21 February 2019 8:21 PM
 To: Angie.Bone@dhhs.vic.gov.au
 Cc: [REDACTED]
 Subject: Brett.Sutton@dhhs.vic.gov.au; ACTION - Next Steps for Listeria-related Food Withdrawal and iCook Foods

Dear Angie

I thought it may be helpful to summarise where we are, what the risk is and what the next steps are at this point. I am not working on Friday 22 February, but help can be sought from PHMCD Unit and of course actions are being led through FSU.

The most important two actions on Friday morning are to ensure the Order has been served, and that an officer personally contact each service and also IGA and the final recipient service to ensure the actual lead / CEO of the service is aware of the email and ACHO advice (as they were sent tonight to the only points of contact we had, which could be out of date / incorrect / insufficiently senior people as they are the food contacts only).

Overall situation

As we learned last night and this morning, there are now concerns with the food safety arrangements at the manufacturer and now a clear knowledge of the widespread distribution to vulnerable groups through hospitals, councils and aged care facilities. As such, an Incident Management Team was held. The meeting determined production should cease, and food produced since 13/1/2019 be discarded and those who have consumed should be made aware to look out for symptoms and signs of listeriosis. After the meeting, we impressed on Council the importance of an Order to cease production and are hopeful that will be served very late tonight, we have written to internal stakeholders across the sector, and letters from the ACHO have gone out to the food supply record client list for the services.

Review of risk from the Incident Management Team

Some critical observations at the IMT were:

- The deceased case who was an 86 year old female was admitted to Knox Private on 13/1/2019, discharged and readmitted on 23/1/2019 and died on 4/2/2019 due to complications of invasive listeriosis
- The listeriosis was probably hospital-acquired, based on published data indicating the likely upper limit for invasive listeriosis presenting as meningo-encephalitis at 14 days, and exposures to a range of high risk foods for listeria, and the knowledge now of a range of positive findings of *Listeria monocytogenes* in foods produced from iCook Foods who supply Knox Private Hospital, and data showing that four of six *Listeria monocytogenes* isolates are of the same binary type as the *Listeria* isolated from the case (more details awaited - match is consistent, not confirmed)
- Sampling and swabbing of the manufacturer at iCook Foods was requested by DHHS on 31/1/2019 and enacted on 1/2/2019 and 25 samples were taken, of which DHHS was informed on 18/2/2019 that seven were positive for *Listeria* and six of those seven positive for *Listeria monocytogenes*. No environmental swabs were positive.
- Council inspections of the manufacturer indicated considerable concerns about cleaning of equipment and food safety standards at the manufacturer, and the findings were discussed at the IMT and the IMT confirmed on the basis of reported findings that there was not suitable or adequate control of the risk of *Listeria* proliferation, and there was some evidence that the manufacturer's kitchen was likely to be the point of contamination of multiple samples that were subsequently positive
- No food sampling from community exposures has been positive (foods matching those purchased and consumed in the community from supermarkets or cafes).

- There was a material risk of Listeria contamination of food produced at the premises from 13/1/2019 onwards to the present time, given, that there were negative findings on inspection, risks identified, positive Lm findings in a range of foods and suggestion of transmission to a vulnerable case who subsequently died, and as such, Council would be formally requested to Order cessation of production.
- The period of production risk was agreed to be from 13/1/2019 (because there was a material risk that was not controlled, samples were positive from 1/2/2019 but a person appeared to have acquired the infection from inpatient stay whilst exposed to foods likely from iCook Foods at some point from 13/1/2019 onwards)
- The public health advice would be that food produced prior to cessation of production should be discarded, and patients / persons who had consumed any food sourced from iCook Foods since 13/1/2019 should be identified and advised of a potential risk
- The name of the premises (iCook Foods) should be released if asked as it was important for transparency and to enable services to identify which food to dispose of / when to warn patients / clients / staff
- The fact there was a deceased confirmed case of listeriosis as part of this investigation should be released if required, as that was the prompt for the investigation
- Lead for IMT is via Environment Section, under ACHO and DCHO(E) with [REDACTED] chairing until close 21 February 2019

Update on issuance of an Order and communication with clients of the company and internal stakeholders

- Two emails have been sent to Council firmly requesting an Order to cease production be served, and indicating the strong recommendation that this must occur prior to first production on 22/2/2019 at 4.30am
- The Council Authorised Officer is preparing an Order to cease production, but has not guaranteed that Council CEO will issue the Order, and this may not occur until after 10pm tonight 21/2/2019
- Internal email briefing has been circulated to leads in DHHS including executives for Hospitals, Private Hospitals, HPV, SCV and aged care
- Letters have been sent around 8pm on 21 February 2019 by email to contact points for all eight Councils, ten hospitals, two aged care services

Next steps and agreed actions from IMT and subsequently

- Ensuring an Order is served and production ceases:
 - Council should finalise and serve the Order after 10pm tonight
 - In the event Council does not do that, it is hoped the CEO of Council will discuss with ACHO at that time, and then ACHO will authorise serving of a CHO Order directly on the premises before 0430AM potentially via Victoria Police (for which an Order is currently under legal review with a view to finalising)
- Checking all services have received the advice:
 - FSU to call each service and check email from ACHO received and identify CEO and ensure it has been forwarded to CEO, or resend to CEO (noting that the email containing letters from ACHO has not been sent to CEOs of any service, since that information was not available this evening - which means if the point of contact for that service as held by iCook Foods is wrong or out of date or the person is on leave, the email from DHHS will not have been received and acted on)
- FSU to identify contact and provide the ACHO advice to [REDACTED] who have not yet been informed
- CDPC / [REDACTED] to obtain details of the patient profile of Knox Private Hospital, especially whether there are maternity and oncology services
- FSU / [REDACTED] to investigate finding that food premises was incorrectly classified as a class 2 food premises under the Act, to determine cause and rectify
- CDES/FSU [REDACTED] to feedback further results of food sample Listeria characterisation, especially to identify if MLST and molecular typing are a match for the findings in the human case
- FSU / [REDACTED] to develop a clear set of criteria required to be met before production can recommence, including elements around correct classification of the food premises, an appropriate food safety programme and Listeria management programme, validation testing
- FSU [REDACTED] to ascertain volume of meals served at each service for purposes of estimating and understanding the impact of the food withdrawal
- FSU to map and investigate supply chain of iCook Foods for any Listeria-related risk
- Media / [REDACTED] to draft holding media lines
- PHMCD / FSU to draft CHO Alert on Friday 22 February 2019 in preparation for use if deemed necessary only - a CHO Alert was judged likely to be required if certain events occurred, for example more cases (an outbreak), concern patients and treating doctors may need to be made aware through media and direct communication (other than through writing to services), or other factors

Records management

There is a TRIM file with key documents at:
HIEF/19/971

Regards

[REDACTED]
[REDACTED]
[REDACTED] Physician (Communicable Disease)
Health Protection Branch | Regulation Health Protection and Emergency Management Division
Department of Health and Human Services | Level 14, 50 Lonsdale Street, Victoria 3000
w. www.dhhs.vic.gov.au

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The Department of Health and Human Services respectfully acknowledges the Traditional Owners of Country throughout Victoria and pays its respect to the ongoing living cultures of Aboriginal peoples.

Appendix 17

Transcripts

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the closure of I Cook Foods Pty Limited

Melbourne—Wednesday, 17 June 2020

MEMBERS

Ms Fiona Patten—Chair

Dr Tien Kieu—Deputy Chair

Ms Jane Garrett

Ms Wendy Lovell

Ms Tania Maxwell

Mr Craig Ondarchie

Ms Kaushaliya Vaghela

PARTICIPATING MEMBERS

Dr Matthew Bach

Ms Melina Bath

Mr Rodney Barton

Ms Georgie Crozier

Dr Catherine Cumming

Mr Enver Erdogan

Mr Stuart Grimley

Mr David Limbrick

Mr Edward O'Donohue

Mr Tim Quilty

Dr Samantha Ratnam

Ms Harriet Shing

Mr Lee Tarlamis

WITNESSES

Mr Ian Cook, Director, I Cook Foods; and

Mr Paul Brady, former detective sergeant, Victoria Police.

The CHAIR: Everyone, thank you for coming and thank you all for making the time this evening; we greatly appreciate it. I would like to declare the meeting open now. Please—I am sure I do not have to say it—make sure your phones are switched to silent.

If I could start by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the land on which we are meeting here today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today or who are watching the broadcast of these proceedings.

I would like to welcome anyone who is watching this evening. As all of you know, this is being broadcast this evening via live broadcast.

I would like to introduce our committee. I appreciate that given our social distancing we probably look bigger than we really are. It is remarkable how you can do that just with a bit of space and a bit of tape.

Ms LOVELL: I thought you were referring to lockdown weight gain.

The CHAIR: To Ian and Paul, if I could just give you some information around what it means to be a witness in these hearings, the committee is hearing evidence in relation to the Inquiry into the Closure of I Cook Foods Pty Ltd. All evidence taken at this hearing is protected by parliamentary privilege as provided by our *Constitution Act 1975* and also by the provisions of our Legislative Council's standing orders. Therefore any information you provide to us today is protected by law. However, any comments repeated outside this room may not be protected, and any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

As you can see and as we have mentioned to you, this is all being recorded. You will be provided with a proof version of the transcript in the next few days, and you will have the opportunity to look at that and make sure that we have not misrepresented or misspelt or misunderstood what you were saying. Ultimately that will be posted on our website. Now, we have allowed 1 hour and 45 minutes for this session. As you can see, this is a large committee, so if we could have some opening remarks from you, then I will open it up to questions. Thank you.

Mr COOK: Thank you for allowing me the opportunity to explain what has happened to my employees, my family and myself over the last 17 months. If someone had described to me 17 months ago what I am about to describe to you, I would not have believed them. It seems way too out there. I used to have an unwavering faith in Australia's system of democracy. I used to believe that the good guys always win in the end, because the system always catches the bad guys. But over the last 17 soul-destroying months I have begun to lose my faith in our system. That was until today. All my former staff and my family ever wanted was to be heard. We all believed that if people saw what had happened they would be repulsed and they would demand that it would never happen again. So I begin by simply saying how grateful I am that this Victorian Legislative Council committee has chosen to listen and to question.

In this brief summary I will not offer a single opinion. Instead, during this hearing I will only provide information that is based on indisputable evidence which has been gathered and accepted by retired members of Victoria Police. The retired detectives have volunteered to work, unpaid by anyone, to expose exactly what happened. To that end, I have brought with me retired detective Paul Brady. Paul is here to answer any questions you have. In the coming days he can also provide any of you with the supporting documents or videos you may require to accept that every single thing I am about to tell you is absolutely true.

Much has been said in the media and elsewhere about false evidence which was planted and fabricated by environmental health inspectors from the City of Greater Dandenong. All this was overseen by the upper house member for Dandenong, who was also the former Minister for Local Government. We know Mr Somyurek was aware of the extensive allegations against the City of Greater Dandenong because he addressed these

allegations in Parliament, conceding the City of Greater Dandenong did have a conflict of interest because of Community Chef, or at least a perceived conflict of interest. In essence, that is what we are here to discuss tonight. Is it perceived or blindingly obvious? Moreover, is it illegal?

The slug was not the worst example of the damaging criminal behaviour which occurred, but it seems to have been the easiest for people to remember—so let us start there. For safety reasons, I Cook Foods has a number of security cameras around our premises. These cameras were filming when City of Greater Dandenong inspector Elizabeth Garlick first came to our business. It seems Inspector Garlick was not aware that these cameras were on or that they were recording. These cameras, including her own body camera, recorded Inspector Garlick repeatedly planting and falsifying evidence. In one part of the recording she can be seen walking into the back left-hand corner of the I Cook Foods premises and spending 17 seconds hunched in that corner. Throughout the day, video shows that that area had been walked through by various staff 64 different times. No-one saw a slug. After 17 seconds crouched in the corner, Inspector Garlick rose to her feet and declared that she had found a slug at I Cook Foods. If this was true, I would have been the first to admit this and apologise. But it was not true.

Earlier that day I Cook Foods admin manager, Leisha Hodges, had thought it was curious that Inspector Garlick had entered the premises wearing an unconventional smock which had tissues protruding from one of the outside pockets. Immediately after Inspector Garlick claimed to have discovered the slug, I Cook Foods employee Michael Cook, my brother, took a photo of the area containing the slug. In his photo, wet tissue is clearly visible on the floor next to the slug. But, tellingly, this tissue is missing from the images Inspector Garlick provided to me and the Dandenong Magistrates Court. We have provided a comparison of both photos, and I will table them. So where did the tissue go from that image? Who photoshopped it out?

Hayes Pest Control had conducted a site inspection just days before, and they had found no evidence of slug activity. A subsequent investigation by Hayes Pest Control found that there was no credibility to the claims that a slug had entered the facility or made it to this location unassisted. Dr Michael Nash, PhD, is a slug expert. In his separate report he points out that this particular slug is not found in the area and is nocturnal. It should have been asleep at the time it was meant to be crawling into my factory.

So why was I Cook Foods targeted? I now believe it is because we had inadvertently made ourselves a target. To explain how we did this, I need to tell you about Community Chef. Community Chef began trading in 2010 during the global financial crisis. At that point the federal government was spending billions of dollars in stimulus projects. That is when 14 Victorian local councils decided to create Community Chef. It was to be a commercial catering company just like mine, but Community Chef would be ratepayer funded.

Imagine running a business where you could not run out of money. Now imagine competing against such a business. At the time I was so concerned I wrote a letter to the then federal infrastructure minister, Mr Anthony Albanese. I still have that letter and also a response from his office, where I was assured Community Chef would cooperate with its commercial rival. I quote:

The Council's project manager is aware of the concerns ... and has committed to working with you to find ways that your two companies can complement each other.

Community Chef was granted an exemption under section 186 of the *Local Government Act* from having to go to tender for meal supply contracts. It was meant to be a requirement that Community Chef only ever did business with its shareholder councils, but in time this proved to be untrue. Since its creation, Community Chef has regularly sold products to anyone who will buy them, breaching the rules they agreed to when the company was set up.

As for the assurance Community Chef would cooperate with my business, it has done the opposite. It has competed with my business, and it has done it with ratepayers and taxpayers money, because in recent years the department of health has ploughed millions of dollars into Community Chef to try and keep it afloat. Incredibly, despite millions of dollars and taxpayer and ratepayer support, Community Chef has still lost tens of millions of dollars since its inception. The department recently offered to buy out Community Chef from each of its council shareholders for \$1 per council—in other words, Community Chef is now worthless. I should make it clear here one of those councils that is a shareholder in the failing business is the City of Greater Dandenong.

So how was Community Chef ever going to make a profit? Well, one way would be for it to become an essential service. But Community Chef could not become an essential service if an alternative commercial rival

like my business existed—otherwise it would not be essential; it would be optional. Therefore the only way for Community Chef to turn a profit would be for my business to stop operating.

I want to acknowledge at this point that some of you will find this alleged motivation hard to believe, and that is okay. I just encourage you to keep listening. When you hear what happened next I believe you will reach the same conclusion that my workers and I have reached. In the end my business was closed and destroyed by the department, who are major financiers of Community Chef. Put simply: I was closed by my competitor. By investing in Community Chef, the department had created a situation where my business could be, and was, killed off by a commercial rival which was funded by ratepayers and taxpayers.

So how did this happen? Well, when an elderly woman [REDACTED] died in Knox Private Hospital in February last year listeriosis was suspected. Samples of her blood were taken on 23 January. They tested positive for listeria mono. On 1 February 2019 the City of Greater Dandenong sent health Inspector Kim Rogerson to conduct sampling of our facility and food. Eighteen days after these samples were taken, the City of Greater Dandenong received results from DHHS food safety unit manager [REDACTED]. The results showed surfaces at I Cook Foods had no traces of listeria and all the ingredient products made by I Cook Foods had come back negative also. The food and the factory were clean and safe.

It needs to be noted that at no stage prior to the closure of I Cook Foods did the department ever send in their own departmental inspector to assess what they were being told by council inspectors—whether it was true. The department simply trusted what council was telling them. That was a shocking mistake on the department's part.

Since the closure of I Cook Foods our team of investigators have managed to legally obtain board papers from inside Community Chef. These board papers give the game away. They show in writing that Minister Mikakos and acting projects director for the department [REDACTED] had been working with Community Chef to ensure the failing business would become an essential service to the public health system. This was going to be done through what is known as texture-modified food. This is food given to hospital patients and the elderly which has been modified to ensure it can be safely and easily swallowed. It should also be noted that just before our closure I Cook Foods was about to launch our own range of texture-modified food we called Smooth Dining. The department and the state government knew this, because we had told them. And yet immediately after our closure this is what was written into the Community Chef board papers we now have copies of, quote:

Further meetings were held and correspondence with [REDACTED] was undertaken throughout March. [REDACTED] assured that many activities were being undertaken in the food service space and asked that the business hold off ... making any direct contact with Minister Mikakos in light of the I Cook issue.

Make no mistake, the department and Community Chef were working hand in glove at that time.

Now, listeriosis is what is called a reportable disease. That means all possible sources of food that [REDACTED] could have consumed should have been investigated but, as you are about to learn, they were not. [REDACTED] was admitted to Knox Private Hospital twice during her illness. Knox Private Hospital was not investigated, and there was no sampling and no swabbing even though the hospital produces sandwiches—

The CHAIR: Ian, if we could just have some time.

Mr COOK: I can stop, if you do not want me to. I am sorry. My apologies. It was given to me.

The CHAIR: Thank you, Mr Cook.

Mr COOK: Now, listeriosis is called a reportable disease. That means all possible sources of food that the deceased could have consumed should have been investigated but, as you are about to learn, they were not. The deceased was admitted to private hospital twice during her illness. Knox Private Hospital was not investigated, and there was no sampling or swabbing even though the hospital produces sandwiches for patients in house with the same ingredients that I Cook Foods uses. Healthscope, who run the hospital, have written a letter to I Cook Foods stating categorically, and I quote:

... there is no evidence of what food products the patient ate at our client's facility, if any. It is also unclear at what location the patient may have consumed any food products which contained Listeria.

The only business ever targeted for testing was I Cook Foods. This was done by the City of Greater Dandenong under instruction from the department.

At this point, it is probably important just to restate the fact that the City of Greater Dandenong is a shareholder in my main competitor, Community Chef. It should also be noted that the CEO of the City of Greater Dandenong, John Bennie, is on the board of Community Chef. Mr Bennie knew Community Chef was going broke, and he knew I Cook Foods was continuing to flourish, having developed the groundbreaking texture-modified food I mentioned earlier. This product, Smooth Dining, has worldwide patents pending, and we had also signed an agreement to launch a partnership with Neale Daniher and his group, FightMND. When I Cook Foods was closed down, this partnership and Smooth Dining was lost indefinitely.

The department directed the City of Greater Dandenong to come and take swabs of our food and our factory on 1 February. The two reports from this swabbing showed that I Cook Foods was not the source of any listeria connected to the deceased and that the source was actually a smallgoods manufacturer, and yet no smallgoods manufacturers were ever targeted or tested by the department. In other words, they never bothered to look for the actual sources of the listeria. In time, it would also be found that the deceased did not even die of listeriosis. Traces of listeria were found in her system, but she actually died of chronic heart disease.

So what happened with those two reports that exonerated I Cook Foods and our employees? The first report showed that our food was safe, and it was not released until two weeks after the department had ordered the destruction of all I Cook Foods stock—and this delay forced all of our contracts into default. The second report, which was from the Doherty Institute and proved that I Cook Foods was not the source of the *Listeria mono*, was withheld for a full month by [REDACTED] from the department. What is worse is [REDACTED] lied to me about the contents of the reports. According to the contemporaneous notes I made about the phone call, [REDACTED] falsely claimed the information contained about the genetics of the listeria was beyond dispute. He said he had me, quote, ‘dead to rights’ that I was the cause. What [REDACTED] chose not to tell me was that the report in question would in fact show two exact genetic human matches found in Queensland. I Cook Foods does not sell food to Queensland. We were never the source.

Our investigators have also analysed the metadata of the Doherty report, only to discover that the report, as it was provided to us by the department, has been edited. It appears to be the entire report; however, when you look at the metadata you can tell the document has been tampered with. Who would do this? Why?

Now because our stock and our contracts had been destroyed, we could not start operating again. I was determined to see the report that was used by the chief health officer to justify the closure. When our lawyers asked the department to provide the report that justified our closure, the department refused to hand it over. In the end I had to go to court and spend tens of thousands of dollars to try and get a copy of this mysterious report. In the end, despite winning the right to see the report in court, no such report has been provided to me. Instead, an unrelated departmental email has been sent to me. This email cannot be the report. The report must state any breaches of the *Food Act* which justify closure. This email does not mention a single breach. Put simply, it is not the document.

When I try to describe the madness of this situation to people, I put it like this: imagine getting a ticket for supposedly running a red light, even though you know you never ran this particular red light. Now imagine asking to see the photo taken by the red-light camera, only to be told you cannot see it and that you will now have to spend tens of thousands of dollars fighting to see the photo. Now imagine finally winning the right to see the photo in question, and when you get what you think will be that photo, it is actually operating instructions for a microwave. In other words, the evidence that we were finally given had no relevance to the matter in question—none whatsoever.

What has the department and the Victorian government got to hide? Was there ever a report, or did they refuse to hand this report over because it never existed? To this day uncertainty remains as to how much information was given to the Chief Health Officer, Dr Brett Sutton, before he closed my business or how much information was kept from him. I would really like to know exactly what Dr Sutton had been told before he went on ABC Radio Melbourne and accused my business of killing the deceased. At the time this defamatory claim was aired by this representative of the Victorian government the department already had the test result which proved my business did not kill anyone, and yet the falsehood was broadcast. Some people still falsely believe that I am a

negligent killer. I cannot begin to describe how devastating that radio interview was to my workers, my family and myself.

When Dandenong city council realised they could no longer tie the deceased's death to my business, they decided to fake a case that my business was somehow not clean and therefore should be shut down anyway. Before I knew it, I was facing 96 charges and millions of dollars in potential fines. Thanks to the work of Paul Brady and retired Detective Inspector Rod Porter, as well as other members of the investigative team, it became quite clear all of these charges were based on falsified and planted evidence, including the slug. When we made it clear that we would fight every single charge and put council's investigators on the witness stand to be questioned under oath, all 96 charges were dropped by council. It was clear council could not have their case scrutinised, and they certainly did not seem to want their investigators giving evidence under oath.

There is so much more I would like to cover in this summary, such as how the closure order was unlawfully made under the wrong section of the Act. I would also like to show you body camera footage of Dandenong council Inspector Leanne Johnson, where she is caught on camera lying about receiving an instruction from Dr Brett Sutton to close I Cook Foods, when in fact Sutton had made no such order. I would like—

The CHAIR: Mr Cook, I am conscious of the time here and that—

Mr COOK: I am literally almost finished, I promise.

The CHAIR: Fantastic; thank you.

Mr COOK: I would like to talk about the emails which we have that show [REDACTED] from the department colluding with supposedly independent third-party auditors to change their audits in order to frame I Cook Foods and keep us shut. We literally have an email where supposedly independent third-party auditor [REDACTED] writes to [REDACTED] from the department of health saying:

Please read ... attached, the draft Critical Non Conformance Certificates and let me know if there is anything you want ... added—

... or parts I need to remove.

That is corruption in writing.

I am glad you will be hearing later tonight from Kim Rogerson, who blew the whistle on the illegal framing of I Cook Foods, only to be bullied and harassed to the point where she is unable to work, or to put it another way, Officer Rogerson is now being denied WorkCover by people who bullied her to a state of crippling depression. I hope we can agree that it is appalling that someone can be so badly treated by a council simply for telling the truth and seeking to expose corruption. I would like to tell you so much more about the last 17 months, but time is limited so I will stop now.

In conclusion, for most people it will always be about the slug, #Slug-Gate. It is a good line, as they say in the media. It is certainly a good reference point for most people. I get that. But for me, what happened is so much more than that: 41 workers lost their livelihoods the night we were closed; 41 families lost their income. A business worth \$48 million was destroyed, and this loss is not speculative. Gary Fettes is a director of global insolvency advisory firm Rodgers Reidy. Gary has had more than 40 years experience and formally assessed our claim and losses. He asked I put it on record this evening that his initial work indicates I Cook's assessment of damages is very close to the claim he has calculated. If I can use any compensation to restart my business and rehire those 41 workers, that is the very first thing I would do. These workers and their families have suffered enough. They deserve to get their lives back.

To that end, my family has also lost its life's work. I was so proud of this business I gave it my name—Ian Cook—I Cook Foods. I chose to be linked to it forever. So when the business name was dragged through the mud and my business was accused of killing an elderly woman by the Victorian government, I felt like I was being accused of doing that. It has been truly horrifying to discover over the last 17 months that the destruction of the business was not accidental. It did not happen out of an abundance of caution, despite what the department of health and others want you to believe now. It was deliberate, it was targeted, it was commercial, it was political and it has been devastating. Thank you very much for listening to me. I am sorry if I took too long.

The CHAIR: Not at all. Thank you, Mr Cook. Thank you very much for your time. We are going to proceed to questions, unless Paul has some very brief comments that he wanted to make before we proceed to questions.

Mr BRADY: Yes. What I can do is just very briefly outline the criminal behaviour, the serious criminality involving the two health inspectors.

The CHAIR: When we say briefly, I do mean briefly.

Mr BRADY: Briefly, what we are dealing with is fabricated section 19(1) and 19(2) orders, a fabricated closure order, the unlawful destruction of in excess of \$700 000 worth of safe and suitable food.

The CHAIR: Okay. Mr Brady, thank you so much. Certainly I have no doubt we will be asking questions and taking from your experience here.

Dr KIEU: Thank you, Mr Ian Cook. Thank you very much for coming here. We are here to listen to you and the view that you present. The events of the last 17 months for you have been big, not just for yourself but for your employees and your family and the consequences that they entail. I just have a question. You have just presented that some of the evidence was falsified from the slug to the listeria. Is there any action that you have taken or you are taking in relation to those that you claim to be falsified evidence?

Mr COOK: Yes. I have made a complaint to Victoria Police and I have handed in a full brief of evidence to them, with the help of Paul Brady. Paul's experience obviously as a detective meant that we were able to put everything we needed to in a format that, if you like, makes it easy for the police to understand my story. The story in itself can be quite simple; when you try and tell the whole lot in one hit it is actually very lengthy.

Dr KIEU: Just a follow-up question. Is there any incident in the past that links I Cook to some of the unsafe or some of the alleged unsafe practices?

Mr COOK: No. In fact if you go through the brief of evidence, where they tried to charge me, they went back to 2015. They actually got documents from a laboratory, which were unlawful under the Act, but they had used them to make it look like there was something—and there is nothing there. I welcome any scrutiny of everything that we have ever done. I have operated multiple food premises for 30 years in Melbourne, and I have never once been cited for unsafe practices.

The CHAIR: Thank you so much, Mr Cook and Mr Brady, for coming today. You mentioned that you have been in business for many years. What has been your experience? I understand your business has been in the Dandenong area for most of that time.

Mr COOK: Yes.

The CHAIR: Have you had similar investigations through Dandenong council in the past—in those 30 years?

Mr COOK: So, in the past 30 years a lot of it I have had premises in Dandenong. I have dealt with the Dandenong health department and had no problems at all. The management of Dandenong health department completely changed about 18 months before this happened to me, and the new head obviously had an agenda of some sort or was told what to do—that I cannot tell you. I can tell you that I have been—if you take the premises we are in at the moment—10 years there. We have three audits minimum a year. We have an audit by the council, we have an audit under our ISO 22000, and then we have what they call a third-party independent—supposedly independent—audit, which means in the last 10 years I have had 30 audits, and I have never failed an audit until the ones that I told you about in this that were concocted.

The CHAIR: In listening to the evidence and certainly reading some of the background to this event—and, Mr Brady, we welcome your input on this as well—whenever you kind of look at conspiracy, sometimes you consider stuff-up, and would you consider that people have been overzealous, and as you mentioned, there was new management that had come in to Dandenong who had oversight over food and safety? But you were very strong in your presentation that there is a connection between what has happened to you and the other business.

Mr COOK: Yes.

The CHAIR: I am just wondering if you are quite certain about that or whether it is just people jumping the gun and acting without the experience of the previous management of the council.

Mr COOK: I would assume that when they employ someone in a senior position, such as the coordinator of public health, they are qualified for it, and in actual fact the person we are talking about, if you go on to EHPA and look at it, she is seen as an absolute expert in her field and her area. So putting that to one side, I cannot see how an expert could do some of the things she has done. Paul can probably go through, if you like, the criminality in some more detail. I can tell you for sure all that I say about Community Chef is because I have read every board paper from 2012 through to today, and from 15–16 they were absolutely dead sure they were going to get \$3.6 million worth of contracts that we ended up winning. We did not know at that time the effect we were having on them, but that would have possibly made them maybe break even, keeping in mind they charge 30 per cent more than what we do for doing the same service.

I never, ever wanted a fight with Community Chef. I complained originally and said I did not think it was fair, and then after that thought, ‘I can’t fight it; it’s too big, too much money—leave it alone’. So I did. But as it turned out, the things we were doing were actually having a huge impact on them, and their own documents show it. Do you agree with that?

Mr BRADY: Yes; correct.

Ms CROZIER: Thank you both very much for being here and for providing your evidence and testimony to us this evening. There are a couple of things. You mentioned a number of reports. You mentioned an email that was provided by the department or the Chief Health Officer at the time of closure.

Mr COOK: Yes.

Ms CROZIER: I am wondering if you could provide the committee with those reports and the emails.

Mr COOK: Yes.

Ms CROZIER: How long was that email? Have you got that here?

Mr COOK: I have that email here. Paul could explain if you close a business under section—sorry, you tell me.

Ms CROZIER: No, I am happy to have the email. My question is around closure. Can you provide the details of the process, Mr Cook, that occurred on 21 February with the closure of your company and the role that DHHS and the Chief Health Officer played, which I think goes to the point that you were saying.

Mr COOK: Quite simply, if I take you through the sequence of events: Elizabeth Garlick comes in, does a report on the 18th. She comes back in the next day and she writes a 19(1) and (2) notice. That is a very serious notice—that is one step away from being closed. She does it after one inspection—bang. Then she brings her boss in and the two of them go through the place and we have about five inspections—bang. And then on the Thursday—

Ms CROZIER: So that is on the 19th. The 18th, 19th—

Mr COOK: And then 20th.

Ms CROZIER: and twentieth. Five inspections, yes?

Mr COOK: Including the 21st, rather. They do another one on the 21st. A few choice bits about that: on the 21st she is on the phone with [REDACTED] from the Department of Health and Human Services. She declares to [REDACTED] according to [REDACTED] notes, on this phone call that she has checked out the clean—the forensic clean—that cost \$12 000 the night before that they made us do. That forensic clean, she declares, did not work, was not deep enough, no. Apparently she can see bacteria. So she says that, but she tells this to [REDACTED] before she has even entered the premises. How can you decide that a clean is no good after all that money is spent and you have not even been through the premises?

Ms CROZIER: But how did she do that? How did she communicate to the department? How do you know that she said that?

Mr COOK: We have her on body camera with the phone call. We do not hear the exact detail of the phone call, but through [REDACTED] from the department, through our FOI, we have a full chronology of what she told her and at what time.

Ms CROZIER: Would you be able to provide the FOI to the committee as well?

Mr COOK: I can show that to you. Absolutely, yes.

Ms CROZIER: Thank you.

Mr COOK: So then we go to the 21st. The afternoon of the 21st she sits in our boardroom and says, 'Oh, well, you know, there are really just a lot of little things here that need to be fixed'. And then our contracts administration manager actually lines her up and says, 'So you've closed us today at lunchtime. Is this continuing? What's happening?'. 'Oh, no. No, we haven't formalised it. No, nothing's been issued yet'. So as he leaves—this is at 5 o'clock—she is on the phone outside, and he says, 'So everything's okay?'. And she is just nodding to him. Then he goes. At 4 o'clock the next morning the papers are served. What we do know is that that night, the night of the 21st, at 9 o'clock John Bennie—

Ms CROZIER: At 9.00 pm? The 21st at 9.00 pm?

Mr COOK: At 9.00 pm on the 21st John Bennie, Roz Blades, who was the then mayor of Dandenong, I believe Jody Bosman and Dr Sutton have a telephone conference. John Bennie tells Sutton that he cannot sign the closure order because he has a conflict of interest. Under the—

Ms CROZIER: What conflict of interest?

Mr COOK: The conflict of interest of being a director of Community Chef. So he tells Sutton, 'I can't close it because of that'. So it is then agreed Sutton will close it. I hate to tell you, Dr Sutton has the same conflict. A financier of the level that the department is for Community Chef means under ASIC and under normal business rules, if you are a major financier you are as one with that organisation.

Ms CROZIER: Do you think the Chief Health Officer was pressured by the Dandenong council into closing you down?

Mr COOK: Yes. Yes, I do. I think with most of the documents you will read—and if you want the FOIs we have got several thousand pages—you look at all those FOIs, and Dr Finn Romanes, who is reporting to Sutton and to Angie Bone, in all of his documentation he says, 'Everything we hear from council. Council is telling us this'. They never came in to check. They just accepted everything council told them, and council had an agenda.

Ms CROZIER: So the council had an agenda with you to shut you down, working in collaboration with Community Chef. Is that what you are saying?

Mr COOK: That, I said to you, I will not give you—I do not know. I really do not know, Ms Crozier, because I do not have a document that says that. All I can show you is all their documentation shows that everything we were doing was causing them grief. And as I said to Paul when he first came and started working with us—

And just to give you an idea, Paul has worked seven days a week for eight months with us for nothing, literally because when he first saw the story and heard what was happening he was incensed about what people were doing with the authorisation and what they can do, if I can put it that way.

Ms CROZIER: But with what you have explained to the committee in terms of a sequence of events—

Mr COOK: Sorry, I meant to.

Ms CROZIER: No, that is fine. But I have written down a few notes on those dates; I just want to have it clear as well. It seems that the CEO, Mr Bennie, Roz Blades, Jody Bosman and the chief health officer with their phone call—have had that phone call. So they have—

Mr COOK: Yes, done something.

Ms CROZIER: So do you think that that—

Mr COOK: What I was about to say—I did not finish—was that I said to Paul, ‘You know what? When I look at what these two women did and I look at the risks they’ve taken in terms of perjuring themselves and the stuff they’ve done, I say to myself, ‘Are these two people just psychotic or nuts—

Ms SHING: Sorry, which two were you—

Mr COOK: or has someone told them what to do?’ I am talking about the health inspector, Elizabeth Garlick, and Leanne Johnson, the public health coordinator.

Ms CROZIER: You mentioned that you were closed under the wrong order.

Mr COOK: Under the wrong part of the Act.

Ms CROZIER: I am sorry; under the wrong part of the Act, exactly. Can you explain that to the committee?

Mr COOK: Yes. Dr Sutton, or the secretary, has the opportunity. Because if you read all the documentation, all the FOI, they are making it out that there is a serious public risk by us staying open, and they say that all this food has to be withdrawn and destroyed. There is nothing under section 19 of the *Food Act* that allows them to do that. Section 19 is merely: if you have someone who is doing the wrong thing and they are recalcitrant and they do not fix what you tell them to fix, then you can close them until they do, and you can close them straight up and say, ‘Fix that, then I’ll reopen you’. That is how it is used. Section 44 is completely different. Section 44 allows for the secretary, where there is a risk to public health, to come in, no questions asked—do not wait for test results—and just close me, and she can destroy any food she likes. The kicker in that one is: if she is wrong, she has to pay compensation. Well, they did not. They closed me under section 19, and then they claimed that a specified step to make my food safe and suitable was to destroy it. How the hell do you make food safe and suitable by destroying it? Seven hundred thousand dollars—3.2 tonnes in skips—of pasteurised food. It has been heat-treated.

Ms CROZIER: The specified step, is that what the inspector told you that they were going to do?

Mr COOK: No, the specified steps came through Sutton—Dr Sutton. So what happened—

Ms CROZIER: Via email or via phone call?

Mr COOK: No, via the order, on the closure order. Just to give you an idea, if you close under section 19, you go section 19(1), where the relevant authority says, ‘Okay, there’s something wrong here’. Then you have a 19(2) notice. A 19(2) notice is written up to say, ‘These are the things that we think that you are breaching, that we think you need to fix and do. Please do them by this time. If we don’t trust you, we’re going to close you until you do those things’. Sutton, and please—that is irreverent. Dr Sutton is given this to sign, and this, in 1 hour, goes: 19(1), (2), (3)—‘You’re closed’. And the specified steps are not lawful under the Act. They have nothing to do—in fact I do not want to—

Ms CROZIER: So you are saying that the chief health officer did not follow the law, he did not follow the appropriate procedures in closing you down.

Mr COOK: No, he did not.

Mr BRADY: He is also not a relevant authority. He has no power. He has acted without power. Under section 19(9) the only one that can close Mr Cook’s food place down is the CEO of Dandenong, the secretary of DHS and the Dandenong council—only those three. It is a means definition; it is exhaustive. Mr Sutton has no authority to close down that premise.

Mr COOK: We have received a document that says Sutton has been delegated that power. The question mark is that under law you have means. ‘Means’, when it is in a statute, is exhaustive. If it says it, that is it. When you get to the list, there is no more. Now, people will have debates about whether he could or he could not. At the end of the day, he came from the communicable diseases department. He knew what tests had to be done. He knew that my food had to show a level of bacteria under 100 CFU—that is, a colony-forming unit.

Ms CROZIER: And did it?

Mr COOK: It did; it was 10 CFU. It was 10 times under the legal limit—and that was one of the documents—

Ms CROZIER: Do you have documentation of that?

Mr COOK: I do; I have it right here. And that document was hidden for two weeks. So here is what happened.

Ms CROZIER: Hidden where? Where was it hidden?

Mr COOK: [REDACTED] hid it.

Ms CROZIER: From the department? The department had that—

Mr COOK: No, withheld it. And under the law, under the Act, any certificate of analysis has to be given to me when I request it. I requested the enumeration continuously. He said, ‘Yeah, yeah, I’ve got it. I’ll get it to you’. He did not.

Ms CROZIER: So on the time frames that you are talking about, when you put those requests in, those requests were denied by the department—not on one occasion—on several occasions?

Mr COOK: Multiple occasions. My lawyers wrote for them.

Ms CROZIER: On multiple occasions?

Mr COOK: On multiple occasions, even when my lawyers wrote. And, look, he was forced in the end because he had to send those certificates. The Doherty report, which was even more damning—he managed to sit on that for a month. I was in a meeting with [REDACTED] and Dr Sutton, and he just sat there and lied. He just sat there and said, ‘Oh, no, there’s more DNA work to be done. I can’t send it to you’.

Ms CROZIER: But the Doherty Institute report that you spoke of cleared you?

Mr COOK: Yes, of course it did.

Ms CROZIER: So where was that during this discussion?

Mr COOK: They hid it for a month. I did not get that until 26 March.

Ms CROZIER: 26 March?

Mr COOK: Yes.

Ms CROZIER: The department had that information and they closed you down?

Mr COOK: Yes. By the way, that morning Leanne Johnson took 17 swabs—the morning we were closed.

Ms CROZIER: What date? The 21st?

Mr COOK: No, on the morning of the 22nd: 4.00 am, the 22nd, she took 17 swabs. I did not get the results of those swabs until December 2019.

Ms CROZIER: How long does it take to normally get the results of swabs?

Mr COOK: They were done within a couple of days. They are dated.

Ms CROZIER: It took eight months?

Mr COOK: Ten months.

Ms CROZIER: Ten months. And what was the excuse for them to delay you receiving those results?

Mr COOK: ‘You have to go through FOI. We’re not just sending you documents’.

Ms CROZIER: Who said that to you?

Mr COOK: The department kept telling my lawyers that.

Dr BACH: Thank you, Mr Cook, for being with us this evening. I have got a question, Mr Cook, regarding the apparent failures of process at I Cook Foods and the apparent failures when it comes to the state of your kitchen and what was communicated to you and when, if that is all right. The Minister for Health last October was asked a question in the Legislative Council by Ms Crozier who said:

In May of this year Victoria’s chief health officer, Dr Brett Sutton, said that the investigation identified ...
... some failures of process and some failures of the state of the kitchen.

Minister Mikakos went on to say—this is a direct quote:

Let us not forget that the investigation followed the death of an 86-year-old woman from listeriosis and there was in fact evidence that the source of the listeria was linked to this food manufacturer—

your business. So can I ask: what information from the department of health was provided to you regarding the failure of process and these failures in the state of your kitchen, because of course, to come back directly to the words of the minister, that was the evidence that linked your business to the listeria?

Mr COOK: Okay. So what she said was that the evidence of food linked to the business is just—let me put it this way: when Coles was selling rockmelons that had listeria—and that was an outbreak; it was not a single incident, it was an outbreak. From memory seven people died, eight if you include the miscarriage of a poor woman. Coles was not shut because they sold a rockmelon that had listeria on it. We are all insured against what we call goods sold. What no-one told Minister Mikakos is that the corned beef, which was the culprit, that matched the DNA in the woman, we buy in from a manufacturer. There were two strains of listeria found on our premises in food. Both were found in smallgoods. One was ham; it had a different DNA match to the woman. The second was corned beef, which matched the woman. We buy that product in, as does Healthscope, as does the Domaine village and a heap of other places around. So that is that part.

On the process part, yes, that was what was used directly after, when all of their evidence fell apart. Remember, go back and have a listen to the ABC. Go and listen to all the media. There is not one word about process, really. I do not recall anything. What there is is a whole heap of stuff about being precautionary because of listeria and because I sell to a vulnerable group, which I have done for 30-plus years. So the process—that became the excuse after the event. And I was closed for unsafe and unsuitable food. Now, Dr Sutton had three choices under the Act: one, my premises were unclean or in a state of disrepair; the food was unsafe and unsuitable; or the last one, my handling and processes is likely that the food would be unsafe and unsuitable. They chose the middle one: the food was unsafe.

Now, if the food was unsafe, you had to have a test or something to tell you. How the hell? What, you just guessed that it was unsafe? No. So that is it. So they were going on listeria, listeria, listeria—that is what they hung their hats on. When it all fell apart on them, completely, they then flipped over and said, ‘Oh well, it’s the processes’. So, fine, it is the processes. I get 96 charges: water ponding, unclean, food residue—you name it. That is fine. Charge me. You only needed to win on one or two charges. I would not be sitting here complaining, would I?

This has been a very difficult time for me, and I get very upset because it is this continual lying, which means—

I do not think Ms Mikakos is necessarily maybe a nasty person. I really do not know the woman. But she is being given absolute rubbish. And when they did finally send their own inspector in and you get her report, you read it, it matches what Garlick and Johnson said, and then, just to add insult to injury, she talks about ponding. The woman never saw ponding. She had to get a photo from Elizabeth Garlick to insert. And when they sent us

the FOI, they sent me an email to say, 'Hey, listen, I didn't get a photo of ponding. Can you send me one?'. Are you kidding me? So she writes a report. Everything that was done after the event was done because I think they realised that they had cocked up big time and now, instead of coming out and saying, 'Hey, let's fix this', they then went into cover-up and they were just going to destroy me.

Gabrielle Williams' chief of staff, when he found out and he tried to help me—he is actually a nice bloke—what did he say? When he realised that Dr Sutton would have to have a media conference, when they realised all of this and it was all wrong, he said, 'Ian, that's not going to happen. They're going to try and send you broke, mate'. That was the nub of what he was telling me. I walked out of there devastated.

The CHAIR: Thank you, Mr Cook.

Dr BACH: Do I still have a—

The CHAIR: No, you do not, I am afraid.

Ms VAGHELA: Thank you, Mr Cook. Thanks for your time today. Once the revised closure order was given to I Cook, were you provided with advice as to the actions your company could take to enable you to reopen the facility?

Mr COOK: Yes. Yes, I was. It is actually written on it.

Ms VAGHELA: So if you had complied with the conditions of the order, you could have reopened the facility?

Mr COOK: No, I cannot comply with them. They are illegal. Let me tell you—let me talk about the things they wanted me to do. First of all, I had to have a gap audit within 72 hours, which is a breach of the Act. The Act—I have forgotten—a much longer time you are given to—

Mr BRADY: Twenty-eight days.

Mr COOK: Twenty-eight days—thank you—is what the Act says. So, anyway—by the way, we complied with one; we got that done. The gap audit—now, you cannot fail a gap audit. A gap audit is: you are here, we expect you to be here and this is what you have to do to go between. That is what a gap audit is. Now, there is no gap audit in the Act or under food standards. It is something that outside industry uses as a term.

So the gap audit guy comes in, and we know he was gotten to because we have got Johnson saying on her body camera—I think they forget they have got these things on sometimes. She sits there and says, 'Um, don't worry, Ben', when she is talking to Ben, our general manager, 'I'm going to give the auditor the heads-up. I'll let him know everything I've found here'. And this is independent?

Anyway, so he comes in to do the gap audit, and he fails our whole food safety program. This thing has been passed for 10 years and been updated—you name it. Now, it is a 16-volume document that covers everything that we do—and he fails it. So how do you fail a gap audit? And how does he fail it? He fails it, and every point he makes is just a rewritten version of what Johnson and Garlick have written in their bogus 19 notice. So that is number one.

Number two, they then say: you have to follow Australian standard 4.3.2. I challenge anyone to go and find me Australian standard 4.3.2. It does not exist. Now, I assume it is a typo, except it goes through the whole document many times. It is 4.2.3. Now, this is a livestock live meat standard. It is a standard that applies under PrimeSafe. It cannot be applied to a food manufacturer. They could not audit it. It cannot be done. How do you do that? And then, if I find it, what did they do? Then they said, 'Oh, we're actually trying to help you here, Ian. We're trying to get you open as quickly as you can, so you now have to have a sampling program'. 'Really? Okay. What's the sampling program?'. 'Well, the sampling program has to be in line with 4.3.2'—that does not exist, and if it does, it is the wrong one. Now, the sampling program, according to 4.2.3, says that if you test product and you find that you have got listeria, then you should hold that product until you have two consecutive tests that do not have it. But you should test. They asked me to do a test and hold program on chilled meals. It takes four or five days minimum to turn the test around. Want to know what the shelf life of my meals are because they are fresh chilled? Five days. They were making me do something that meant I

would have to be selling unsafe and unsuitable food. That is two years jail. How do they give me these things to do that I cannot do? This was so rushed. This was such a dog's breakfast.

You know what? My lawyer—who is a civil lawyer and said 'I can't help you' when I was charged but is helping me again now—said to me when he first read all this stuff, 'This is a lay-down misère'. That is until he found out that you cannot have negligence against the department of health because a regulator has no duty of care for the people it regulates. Man, if you ever change the law, ladies and gentlemen, you need to have a look at that, because this—

Anyway, misfeasance is misfeasance. As soon as you do illegal stuff or you do not follow the law, then that is it. It will happen. It is just this system is extremely slow and it is designed to try and send people like me broke so that we go away and nobody has to answer for it. Well, I can assure all of you tonight Ian is going nowhere.

The CHAIR: You have run out of time, I am afraid.

Ms SHING: Thanks, Mr Cook. I appreciate that this is actually a really difficult process for you and for everyone else who is here, and your candour is a really important part of this particular process. I would like to get a bit more of a sense of the corned beef presence and the way in which that figured within the slicing or production or preparation area given that it seems to me that that is the only thing that had a DNA match to the listeriosis that was identified. Is that correct?

Mr COOK: No, in actual fact

Ms SHING: Am I misunderstanding that?

Mr COOK: That is not quite true—of the source ingredients. So what happens when council comes in and does something like this and does testing is they will say, 'Okay, what do we need to test here? We need to test sandwiches'. So they will get the sandwiches and samples of what you have got and they take them away. By the way, they are supposed to pay for them—that has never happened. So they take the samples away and those samples get tested. Now, in this case it was mixed sandwiches, so the mixed sandwiches are taken away. Then they will say, 'Okay, where are the source ingredients? Where do you get the corned beef from?'. We say, 'Okay, we buy the corned beef in. Here it is'. Now, in this particular case we buy whole corned beef from a supplier. That corned beef gets sliced and vacuum packed.

Ms SHING: Where does it get sliced and vacuum packed?

Mr COOK: We slice that ourselves, so that is sliced on our slicer. The slicer that does that is what we call a hands free, so when you people think of—sorry, honourable members.

The CHAIR: No, no, no, 'us people' is fine.

Mr COOK: When you go to the supermarket and you see someone slicing corned beef and touching it, in the sort of environment we use that does not happen. What we do is the meat is taken out of its package that comes from the supplier. Literally that is taken out by someone wearing gloves. It is loaded into a hopper and it is not touched. A thickness is dialled up, a button is pressed, it goes straight into an out feed and onto a tray without being touched. The gloved hand that put it in puts it into a vacuum bag. It is vacuum sealed, all done under temperature control, and back in the fridge. That is what was asked for. That is what was then taken and sampled. ██████ said to me, 'Well, obviously you contaminated it, Ian, because you sliced it'. A couple of things happened. One, the ham that also had listeria on it, we had two complete fully sealed packs of the very next batch when they closed us—remember, 18 days has gone past by the time they come back in. That showed listeria—*Listeria mono*, which is what they are testing for.

Ms SHING: It was a different strain, though, wasn't it? You said—

Mr COOK: Yes, it was a different strain. But ██████ said to me, 'Ian, you can't hang your hat on that'. I said, 'What do you mean?'. Apparently you can sell something that is dangerous as long as it does not match the illness of this woman, which I found quite extraordinary. But putting that to one side, the corned beef had been taken, had been sampled. How do we know that the corned beef came in with it in it? Because how the heck do you get two identical cases in Queensland unless they had the same food source? And we know that because you have a national database and the national database is there so that you can track listeria. Do

you know that a man died in Queensland and they could not work out where he had eaten the listeria, and it was just one of those perplexing things. And they went through his diet—he had been eating nectarines. Then they got a hit in America for an identical DNA. It turns out he had got nectarines that had been imported by Woolworths into Australia, and one of them had that, and they had had an outbreak in America. So you can see—

Ms SHING: But just on that, just by way of follow-up because I am trying to get my head around the processes for cleaning the hoppers and the slicers as they operated—

Mr COOK: They are fully washed. Every day when they finish slicing they are fully washed. Once they are completely done—you will see there is a big sign; I can show you photos off body camera, nothing to do with us, from the council—before they are used they are all sprayed with a bactericidal food-safe sanitiser.

Ms SHING: Before they are used again the following day.

Mr COOK: No, no. We clean it. It sits there clean. Before I slice for your sandwich the next day it is sterilised before that happens. Now, you asked before about—there was a cucumber that also got a hit for the same DNA, right? A slice of cucumber. The thing you have got to remember is that this product sits on a series of containers like a sandwich bar but it sits above a conveyor and the sandwich bread comes along and there is a person putting each thing. So what happens with mixed sandwiches is everything touches everything, so once you have got listeria in something you are going to get a hit on odd things, that is all.

Ms SHING: And finally, before you move on, because I suspect my time is running out—

The CHAIR: You have got about 90 seconds. Thank you, Ms Shing.

Ms SHING: There we go. I will make it quick. So before the incident occurred, when was the last time that you had undertaken a deep clean of the facility in addition to the sorts of practices that you have just outlined around the hopper and the sterilisation before—

Mr COOK: I am more than happy—if you have the time, I will bring in videos that show a complete and thorough wash down every single afternoon. The whole place is flooded, washed, squeegeed and dried.

Ms SHING: Is that the deep clean within the meaning of it?

Mr COOK: Absolutely, deep clean.

Ms SHING: Every day?

Mr COOK: Every day.

Ms SHING: So the day before the incident—

Mr COOK: Yes. In fact because apparently they had seen this clean that they did not see and deemed it no good, I actually went and watched the video that we had held to see what the forensic team had done compared to what we had done the night before. Remember, we were still directed to do a deep clean.

Ms SHING: So just quickly, there was cucumber, corned beef. Because they all come together, yes? So lettuce and other things.

Mr COOK: Yes. So when they talk about the six samples, well, two of them were a different genome—they were the ham. So you have got ham and then you have got mixed sandwiches with ham in them, and then you have got mixed sandwiches with corned beef, cucumber, egg et cetera in them, and so there was a hit. I have no idea why MDU decided to sample each little quarter separately, but that is what they did. We do not know why. It is not procedure.

Ms SHING: So it was cucumber, corned beef. Were there other—

Mr COOK: And egg.

Ms SHING: And egg. Thank you. Sorry, I suspect I am about to be cut off, so I will give that back to the Chair.

The CHAIR: Yes, you are.

Mr ERDOGAN: Thank you, Mr Ian Cook, for coming along today and informing this committee. I just have a few questions—a few different issues actually that are coming out of what you have said. You said that you got a lawyer. When did you actually engage lawyers? Because you said you had spoken to a friend who was a lawyer.

Mr COOK: No, no. I have lawyers, company lawyers.

Mr ERDOGAN: You have company lawyers. The whole way through this proceeding, dealing with the different departments, did you have lawyers assist you?

Mr COOK: Yes.

Mr ERDOGAN: You did. Okay. And I guess one of the questions I had was I read through the documents and your facility was classed as a class 2—

Mr COOK: They actually classed it as a class 2A, which it does not exist.

Mr ERDOGAN: under the Victorian *Food Act*. But it is giving out food to people who are quite vulnerable cohorts. Would you recommend those cohorts in hospitals to eat that food although you are saying it has got listeria?

Mr COOK: There are a couple of things you need to know. Number one: sandwiches with smallgoods, by the department's own guidelines, should not be given to immunocompromised patients. Now, sandwiches ordered from me by Healthscope—I have no idea who they are giving them to. They ordered 300 ham sandwiches. Every day we had to make them for them, and then we would make another couple of hundred mixed sandwiches. Now, they could be going to day patients, which are fit, young, healthy adults who it is not going to be a problem for if there is listeria present. You have all eaten listeria. I can absolutely promise you that. It is on your feet, it is around you—as the department says, it is all everywhere.

Mr ERDOGAN: So even at low levels, if Healthscope was to provide those sandwiches to vulnerable cohorts, it was not exposed.

Mr COOK: I would suggest that would make Healthscope liable wherever they bought the sandwich from. If they are giving sandwiches to people who are immunocompromised, then someone should go and talk to Healthscope. No-one did. There is a legislated safe limit for listeria. We were 10 times under it.

Mr ERDOGAN: Was listeria found in all the products, all the sandwiches? Is that what I understood from the previous answer?

Mr COOK: How do you mean?

Mr ERDOGAN: Because, like there were five or six different types of sandwiches. So, on all of them?

Mr COOK: No, they were just mixed sandwiches.

Mr ERDOGAN: They were mixed sandwiches.

Mr COOK: And they found it in the mixed sandwiches. Now, when you send mixed sandwiches in for sampling, what the lab should do is pick up the mixed sandwiches, they vitamise the whole lot, they take a sample and they grow that out. It is no good. Because sandwiches are cut with what we call a reciprocating knife—so a knife that goes like that—if you have got a bacteria in there, it could be in one. As soon as you have got something with bacteria in there, you are going to have it turn up in the funniest spots just because you are spreading it, effectively.

Mr ERDOGAN: And earlier you gave an answer—you said that you have, is it, three audits a year? Was that right?

Mr COOK: Yes, that is correct.

Mr ERDOGAN: So it is audits from—the only other audit I know is an accounting audit. Do you hire the auditors to come in, or how does it operate?

Mr COOK: Yes, we have to. Well, we have to pay them.

Mr ERDOGAN: You pay them.

Mr COOK: You get one audit. Well, you do not pay for the one from council. So you get one from council. The only difference between a class 2 and a class 1 premises, which they made a big deal about, is a class 1 has to have a customised food safety plan. A class 2 can have the option of using the department's template. We use ISO 22000—that is, international standards organisation. So if you look at levels of professionalism, you have the department's template that restaurants, cafes and those people tend to use. That is the lowest level. Then above that if you are a class 1 and you have your own dedicated food safety plan—you have engaged someone that may do it under HACCP principles that might even be HACCP—you do that. And then if you want the Rolls Royce, you go to the trouble of having ISO 22000.

Mr ERDOGAN: And you get that certified?

Mr COOK: That is certified. The guys that check that out are extremely qualified, and take ages and put you under the griller every time they come, and I have passed every one for the last 10 years. So that is 30 audits that we have passed. But apparently on the week of the 22nd all my employees—everybody—forgot what they were doing and we failed.

Mr ERDOGAN: I appreciate that. I worked at a firm which also had ISO certification, so I understand a little bit about that process.

Just one last question, because before the public hearing came on I did obviously do a bit of background reading and saw some of the footage or the television program in relation to what has occurred. I noticed that Mr Paul Brady has volunteered his time—thank you very much for coming along. But did you hire a PR firm to actually assist you with that process?

Mr COOK: No. When this first went down, I had media calling me from everywhere, and we were blind. We had no test reports; we had nothing. Even the reports that they had done on the 18th, we did not get those until after we were closed. And then what did we get? They gave me six. All they sent was six. Out of 15 reports, they send six. Why? They sent me the six with the listeria. He is a really nice bloke, [REDACTED], so he sends me the six to make me feel bloody awful. What did the others show? The others showed that the egg, which we manufacture, the chicken, which we manufacture—all clear. The stuff we bought in—oh, kazing. It has got it in it. Okay.

Mr ERDOGAN: That is my question. My only question was whether you had hired a PR firm.

Mr COOK: Okay. I am sorry.

Mr ERDOGAN: Yes or no. That is all. Thank you very much for that.

The CHAIR: I think the timing is perfect, Mr Erdogan. The timing for that was perfect. Thank you, Mr Cook. Are you okay?

Mr COOK: I am fine. I just had a—

The CHAIR: It is a remarkable circumstance.

Mr COOK: Do you know what? Some of this stuff, because it takes me back, it makes me remember, and some of it I had put aside for a while. It is fine.

The CHAIR: I can totally understand. Your eye for detail is amazing.

Ms MAXWELL: Mr Cook, thank you so much for being here tonight, and everybody else who has come. Mr Cook, can you very briefly explain to me what role—I am actually going to move away from the listeria for a moment—if any, did the slug play in closing your business down?

Mr COOK: It was because two serious breaches of the *Food Act* are, one, to allow an animal into your facility and, two, to not prevent a pest from entering your facility, so it is very serious. When it happened I was just dumbfounded. I just thought, ‘How the heck did that happen?’. You sort of think if somebody had said to me there is a slug there and it is one of those tiny little 2 or 3-millimetre ones that you occasionally get at the bottom of the lettuce or in a stick of celery or whatever, fair enough. It would get washed down the sink; it would be killed by our ozone generator, which sterilises the water in the sinks. When Michael—because I had just got back to the factory after this had happened—Michael, my brother, showed me this photo, this thing was

5 centimetres long. I thought, ‘What the?’. It was 24 or 25 degrees and bright sunshine outside. There was no silver trail, no nothing.

Now, that became a focal point. I know it became a focal point for the media. They thought it was terrific. For me, it became nearly \$1 million worth of charges and something that would have been, if we had not had all those cameras in place, very difficult for me to fight. In fact if I had not had the surveillance that I have in that facility, I may very well right now be facing a jail term, because when we got the FOI, Dandenong had had a meeting—as I can show you on an FOI document—on the 19th. So you have got Elizabeth Garlick, who has come in on the 18th, the only one. On the afternoon of the 19th—she comes back on the 19th to serve the orders, then she disappears again. So one person has seen the facility; that is her. She has a meeting back at Dandenong. She is the note taker, and she writes, ‘How do we close I Cook Foods?’ and she quotes a Magistrates Court order. She quotes the—

Mr BRADY: Planning and compliance.

Mr COOK: planning and compliance. What is the other Act?

Mr BRADY: Section 8?

Mr COOK: No, no. The other Act.

Mr BRADY: Public health and wellbeing.

Mr COOK: the *Public Health and Wellbeing Act*. None of these things have anything to do with it. They wanted to close us—whatever. On that day, on the 19th, they had already decided, ‘We don’t care. We’re going to close them’. And then she writes, ‘Contact previous auditor to see if we can get knowingly in section 8’. That made me cold, literally, and thinking about it now I literally get a bit shaky about it. Have you have got any idea of what section 8 is? If you sell food knowingly under section 8, two years jail. This woman wanted to get me in jail, or whoever was at that meeting with her. They are fabricating evidence, and I am thinking, ‘Thank God for the cameras’. Can you imagine otherwise? You know, it is like I said to you in the beginning: if someone else had told me this story in the food industry, I would have said, ‘Oh, take it easy. It doesn’t happen’. I have got news for you: it does.

Ms MAXWELL: Mr Cook, can I just take you back again? Slugs are hermaphrodites, which means that each slug can produce up to 300 slugs, and they lay in batches usually between 10 to 50. I am curious to know, given the slug was found on your premises, how far is the kitchen in proximity to soil outside because you were saying that you do a deep clean every night, which means it hoses it all down.

Mr COOK: Yes.

Ms MAXWELL: Now, they do not like that environment. They like moist but not wet environments. So how far is it to external soil and was there ever any indication of a slug trail? You usually know where a slug has been.

Mr COOK: Yes, yes, you would see the silver. To answer that question for you, we have Hayes Pest Control. They put traps all the way around. Just near where the slug was planted there is a fire exit door. That fire exit door is sealed all the time; no-one uses it because it is just for that purpose. However, because it is a point of ingress or egress they have two bait stations either side of the door. Now, the reason Hayes Pest

Control always know when there are slugs around, if they are around—they say, ‘Rarely up the back because up the back is all concrete’, and then our back neighbour, if I can put it that way, theirs is all concrete. There are a few little strips and things, and there is a possibility of getting a slug in the cracks between, if they decide to live there. However, the reason they know is, what they do is, the baits which are there for rodents—because there is always going to be mice and rats and things outside—they are there, and they wrap them in Glad Wrap, and the reason they wrap them in Glad Wrap is because slugs love rat bait, so they always know when they have had it because they come up and they chew through the plastic and they eat the rat bait, and then they leave a little silver trail. As the guy said to me, ‘It’s just too hot. They just won’t come out’. He said, ‘Not in February. That’s ridiculous’.

Ms MAXWELL: Thank you, Mr Cook. Just one more very quick question.

The CHAIR: Very quick, Ms Maxwell.

Ms MAXWELL: How often do you actually have Hayes Pest Control come to your premises and survey your floor?

Mr COOK: They are contracted. They are there every single month. They do all the bait stations, they check all the rats are out. We also have insect control. They go to the trouble, by the way, when they empty the insect control, to count the different insects. So everything is very thorough continuously. So she comes in on the Monday, they were in on the Friday. That is how we know that there was no slug activity.

Ms SHING: I am holding Mr Tarlamis’s time, if that is all right, Mr Cook. So you have mentioned MDU, the laboratory.

Mr COOK: Yes. They are a diagnostic university lab.

Ms SHING: So they are an independent lab?

Mr COOK: MDU and Doherty are all related because they are all part of Melbourne University, and they also have the Royal Melbourne Hospital as part of Doherty. It is the pre-eminent genetics laboratory in Australia.

Ms SHING: So MDU is an independent lab?

Mr COOK: Yes.

Ms SHING: That is fine; I just wanted to clarify that. Based on the chronology that you have given us earlier, you were closed for about four weeks, give or take?

Mr COOK: Yes.

Ms SHING: What happened at the end of that four-week period? Why didn’t you reopen if you had—

Mr COOK: We did reopen.

Ms SHING: You did reopen?

Mr COOK: Yes. We did not have any business though. You see, what happened is they destroyed all my contracts and all the contracts I had were council contracts, and unlike Community Chef, they have to go to tender. So because it costs 20 grand a month to start our facility, I could not just tender for one contract because what price am I going to tender at? I am not going to win it if I price it at running the whole damn facility, and I do not know if I will get another one. I actually wrote to a number of councils and said, ‘Look, if three of you could get together, we might be able to do this’. They went out on their own. By the way, remember I was then on charges and I was told by a couple of them, ‘You know what? We’re not sure what happened exactly and we understand that this doesn’t look great and blah, but—

Ms SHING: So you wrote to a number of councils. Were any of those councils shareholders in Community Chef at all?

Mr COOK: No, no. The ones we dealt with were not.

Ms SHING: They were not?

Mr COOK: No.

Ms SHING: Okay; cool. When you say you did reopen, what did you do? What falls within that definition for you, given that you could not actually get any—

Mr COOK: Unlock the door and go in. I could cook in there. It has got a beautiful kitchen. If you want to come down we could—

Ms SHING: So what did you do when you reopened? Can you just flesh that out? After the four-week period had finished you said you could not get—

Mr COOK: No. We reopened. We contacted a number of the aged-care facilities that we did that are not contracted. However, the information we got back was, one, they are risk averse and ‘Just at the moment, given what’s happened, no’. Now, right at that point in time also I went to Argentina. So if I can tell you about our texture modified. We do have the patents in place. Our texture modified—we won the IDDSI challenge, which is a worldwide challenge. We can make texture-modified food look like real food and people do not realise it. As a matter of interest, any of you who saw the ABC and all the other reports of when we were closed, and they were showing I Cook Foods food, what you were looking at was texture-modified food. That food you were looking at, that looked like real food, was ours. We were giving dignity back to people. Neale Daniher is able to go to a presentation, and instead of leaving and not being able to dine with the people he is trying to get a donation off, his wife now takes our food so that he can dine with dignity with them and with respect. Everybody else just makes blobs.

Ms SHING: So again, to go back to the reopening period, when you said you went to Argentina, was that immediately after the closure?

Mr COOK: The exact dates I would have to help you with, but—

Ms SHING: About six weeks after the closure?

Mr COOK: Yes, and I went there because they were interested in buying the rights and getting some stuff exported to get them started and do it there.

Ms SHING: And final question, if I may, just to go back to my earlier questions around I think it was corned beef, egg and cucumber that you talked about.

Mr COOK: Yes.

Ms SHING: There were six samples—

Mr COOK: Okay, so there are two—

Ms SHING: Sorry, just let me finish if I can. There were six samples of sandwiches that were found to contain listeria; is that correct?

Mr COOK: Yes.

Ms SHING: And four of those samples matched the listeria that was found in the deceased; is that correct? Yes? Okay. So the other two were different.

Mr COOK: Yes.

Ms SHING: So they are different sorts of listeria, and we have talked about the distinction between—

Mr COOK: Different family.

Ms SHING: Yes; okay. So if you have got multiple types of listeria, were they both only tracked back to product that had come from elsewhere and been chopped up in the hopper, for example, on site?

Mr COOK: If you actually look at the samples, there were not six sandwich samples. There was ham directly from the source, there was corned beef directly from the source—

Ms SHING: Both received in bulk.

Mr COOK: Yes. The ham comes in pre-sliced. Both of those got hits for *Listeria mono*. There were two lots of sandwiches—I might need some help here—so the mixed sandwiches with ham obviously matched the ham listeria, so that is the two you are talking about. Then the four were corned beef, then corned beef mixed sandwiches, and there were two lots of corned beef mixed sandwiches. When they tested the other lot of corned beef mixed sandwiches the listeria ended up in the egg, but the egg from the source, which was also tested, was clear. Got that?

Ms SHING: Yes. Thank you very much. That is fine. And you did not have any transactions or sales after you reopened? So you opened the doors, but you did not get any work despite going to aged-care facilities—

Mr COOK: I went back to all our customers and they—

Ms SHING: You went to all of your customers.

Mr COOK: I went to all the customers that were not council contracted ones. Then I went and presented at a Meals Victoria meeting. I told my story at that Meals Victoria meeting. I was asked at that meeting to make sure I wrote to all councils. Every council that we did, I offered to meet with their mayor, their CEO, to go through some of the evidence like I am telling you today so that they would understand what happened. They were all very polite, but, ‘You know what? This is a bit difficult’.

Ms SHING: So you were not actually able to practically reopen, then.

Mr COOK: No.

Dr KIEU: You mentioned that you use some of the very high standards in the ISO 22000 which are way above the departmental or the act template that are required.

Mr COOK: Yes.

Dr KIEU: And particularly you were providing food for aged care and hospital people.

Mr COOK: Yes.

Dr KIEU: So what classification do you have for your facility?

Mr COOK: We do not get to choose the classification, the classification is chosen by the council. So Leanne Johnson, who is the woman we are talking about, issued our registration certificate from the year before in the June—because it goes June to June—as us being a class 2a. What Dandenong did was they changed their classifications, so instead of having class 1 and 2 they said, ‘Well, we have some operators that are selling to vulnerable groups, but they are also selling to others, so they are not really a class 1’. Because technically for class 1 you have got to be directly serving hospitals or children—the vulnerable—directly. We do not do that; we sell to people who serve it to them. So what they decided was they were going to make their own classification of class 2a, which meant that we were up there with class 1. You know what? I have been a class 1, I have been a class 2—I have no choice in the matter—they tell me. I do have a choice about the food safety standards I operate to, which is why I go a mile above all of them. Just one simple point: we use Gastronorm trays. You have probably all seen them in bain-maries. We use thousands of them.

Ms SHING: Are they the big metal ones?

Mr COOK: Big metal ones. They go through the dishwasher, they come out of the dishwasher, they are dried. But you nest them; they are designed to nest. If you nest them and just put them on a rack and leave them, that warm, moist air that is in the scullery will condense and you are left with moisture. What do you need for bacteria? You need moisture, you need food, you need warmth.

So, with my head chef one of the things we used to do was—because we knew we needed about 1600 a day, we had five 40-tray ovens—once the day is finished, and the cleaning, they all came out. They get loaded on. They go into the ovens and they are heated to 230 degrees. Nothing survives. Once they are blitzed, they then go onto a rack where it says, ‘heat-treated trays’. No-one is allowed to touch a tray for food unless it comes from those shelves. Nobody else I know does that. When we explained that to Elizabeth Garlick she said, ‘Well, if you washed them properly in the first place, you wouldn’t have to do that’. And that is on body camera. So I have got an EHO telling me, ‘Don’t do something that is incredibly safe’.

Dr KIEU: So you are satisfied with the classification 2a that you were given?

Mr COOK: Yes, I am satisfied. They can call me whatever they like. I am way above whatever they could give me.

Ms LOVELL: So, Mr Cook, you mentioned the ham, the ham sandwiches, the cucumber, the corned beef, the egg, that all tested positive. You said they were all bought-in products.

Mr COOK: Yes.

Ms LOVELL: Did the department then test the suppliers of those products? Did they pursue how that listeria might have gotten onto those products?

Mr COOK: No, no.

Ms LOVELL: So they did not go to where the source may have come from? They did not test them? They did not close them down?

Mr COOK: No.

Ms LOVELL: Okay. Interesting. Also, just quickly, have you ever been the subject of any adverse food health findings in the past, and if so, what were the circumstances?

Mr COOK: Never. Nothing, ever.

Ms CROZIER: You mentioned that Ms Garlick said—from her notes, I think you said—‘How do we close I Cook Foods?’. What notes were they?

Mr COOK: They were meeting notes from the afternoon of 19 February.

Ms CROZIER: And have you FOied those? How do you know about those notes?

Mr COOK: Yes. That is all part of the FOI documents we have, so here she has got—anyway, she has got a number of things here:

Audit report—does this support the ‘knowingly’ component of section 8 of the act?

Ms CROZIER: And that is a two-year jail—

Mr COOK: That is two years jail.

Ms CROZIER: So there was a deliberate intent by Ms Garlick to close you down, based on those comments?

Mr COOK: Yes. Well, under that, she says, or she is making notes. Remember, this is a meeting, according to this document.

Ms CROZIER: Who is she meeting with?

Mr COOK: I believe she is meeting with the team.

Ms SHING: Which team?

Mr COOK: So there is Leanne Johnson, there is Elizabeth Garlick—

Ms CROZIER: The Dandenong council.

Mr COOK: Yes, and she may have had other EHOs. In fact you may ask, when you are speaking to Kim later. She may have a better idea than I do. But she says here:

Can we get a closure order enforced by a magistrate under Public Health and Wellbeing Act, prohibition notice, anything from planning and compliance to stop them operating?

What is going on? We have got a *Food Act*. This is meeting notes on the 19th.

Ms CROZIER: So there is a deliberate intent to shut you down?

Mr COOK: Yes. This is before Johnson even turns up.

Ms CROZIER: What relationship does she have with Community Chef?

Mr COOK: I have no idea, but she is doing a good job for them. It is like they say, when I think about this, I think about the slug. An environmental health officer is an investigating official under the *Crimes Act*. These people have extraordinary powers.

Ms CROZIER: Has she breached her code in your opinion?

Mr COOK: Absolutely. Ask Paul. Has she broken the law?

Ms CROZIER: Has she broken the law, Paul?

Mr BRADY: Under the Act she is actually an investigating official, under 464 of the *Crimes Act*, which means that she is subject to certain obligations—for example, cautions, fairness and frankness, and transparency. And all those were lacking, particularly with these two EHOs.

Dr BACH: I will take you back, Sir, to the question that I asked before. We just ran out of time. I was asking you a question about some comments that were made in the house last October by Minister Mikakos and you had made a point. Do not let me put words in your mouth, Sir, but you had made a point about the fact that you thought—noting that, you know, you did not want to make any personal comments about the minister—that she had gained this advice. I was going to ask you whether you had any idea where this advice came from which in your view, as you put to our committee, was erroneous.

Mr COOK: Yes. So I can only—I do not like making assumptions, but I have to say that the advice could only have come from the food safety unit, so I would believe that the advice is coming from [REDACTED] [REDACTED]. [REDACTED] by the way, he knows what safe levels of listeria should be, because listeria does turn up at different times. I have an email from him that actually sent through to Dandenong that says, ‘Oh, because a particular fish in fennel sauce, where raw fennel was used, had a hit for listeria’. It was under 10 CFU again, and also that product has to be heated, okay? And it is under five days, it is a chilled product—completely safe, no problem at all. And he writes back to Dandenong and says, ‘Oh, yeah, that’s fine. It’s under 10 CFU. Everything’s terrific. Ta. Paul’.

Dr BACH: How do you have these documentations, sorry, Sir?

Mr COOK: They are all FOIs—most of them.

Mr BRADY: That one was emailed to us.

Mr COOK: Oh, sorry, that one was emailed to us, yes.

Dr BACH: Okay.

Mr COOK: We have a mountain of documents, I can assure you, and some of the stuff that we have been given—I think the issue here is I do not think when these people release these FOIs they realise that we have

watched every single minute of 22 hours of body camera footage and when you put it together you get the picture.

Dr BACH: Sir, very quickly before I finish, you made a point about Mr Bennie and a conflict of interest as you had explained.

Mr COOK: Yes.

Dr BACH: Can I just press you further on that? Are you aware of whether Mr Bennie has any links with the Labor Party?

Mr COOK: Does Mr Bennie have links with the Labor Party? I do not know that, no.

The CHAIR: And Dr Bach, let us just stick to the closure of I Cook Foods and within the terms of reference, thank you.

Ms VAGHELA: So your company was certified to ISO 20000 standard?

Mr COOK: Yes, 22000.

Ms VAGHELA: And you were holding that certificate?

Mr COOK: Correct.

Ms VAGHELA: And you were getting every year independently audited?

Mr COOK: Yes.

Ms VAGHELA: Now, when you got the gap audit done, against what standard was that audit done?

Mr COOK: So now, that gentleman is only qualified—I think he might be qualified for HACCP; he is not qualified for ISO 22000. When you bring in an auditor who is—it is a third-party independent auditor but they had to be registered with the department of health, which means they get their income because they are registered with the department of health. He came in and he audited us against what is classified as a—help me, Ben, here—class 4 national auditor certificate, which means he is auditing my ISO 22000 against basically the basic food standards or the template that the department use. What they call it is it is audited against the principles of HACCP, not as if it is a whole HACCP classification. Extraordinary, absolutely extraordinary. And if you read this report, it is just—

I mean, what are some of the things he comes up with? He comes up with the fact that because we had in our documentation a risk analysis report for a bacon and egg burger—by the way, it is a burger bun with bacon and egg—he said, ‘Yes, but you haven’t shown me here anything about how you cook the burger’. Well, there is no burger in it; it is just bacon and egg. And this was a critical nonconformance. Please, any other time I would be laughing, too, but this is ludicrous. This was just a stitch up.

Ms SHING: Thanks, Mr Cook. I just want to go back. So you talked about the meeting notes that you have referred to earlier, that you received under the FOI, in response I think to Georgie’s questions.

Mr COOK: Yes.

Ms SHING: So that was Leanne, Elizabeth and someone else from the team we do not know; there was some sort of team meeting.

Mr COOK: Yes.

Ms SHING: What date was that?

Mr COOK: This was on the 19th.

Ms SHING: So the 18th was when the listeria was discovered, is that correct?

Mr COOK: Okay—

Ms SHING: Yes, this is where I am getting the chronology.

Mr COOK: Okay, let us go through them.

Ms SHING: Yes.

Mr COOK: Samples are taken on 1 February. They do not get results for 18 days. When they get the results on the 18th, Elizabeth Garlick—because it is a referable condition disease, they cannot give it to council to investigate; it has to be investigated by the department. If the department does not have the resources, they effectively second or make EHOs of an area their agents. They tell them to go in, and they give them instructions on what to do. That is what happened. She was sent in to follow up on the testing, and she was told a couple of things. She was told to ensure that we do a clean down, and under the rules, under the guidelines, under the rules that they work under, she is supposed to supervise that until she is satisfied it has been done properly.

Ms SHING: Yes, but the reason I am asking is I am trying to get the chronology.

Mr COOK: By the way, she never did come in.

Ms SHING: You said that, I think, in your opening remarks.

Mr COOK: Not that bit I didn't, but anyway. Sorry, go on.

Ms SHING: I am trying to get the chronology straight in my head in relation to the dates of the meeting. Were there results that had indicated the six or seven positive returned results for listeria available before that meeting, at which those various potential courses of action are written in those notes?

Mr COOK: As far as we know, and I can only tell you what is in the brief of evidence, according to the brief of evidence Leanne Johnson had received all of the reports which were, what we call, positive in 25—so they were just saying that listeria was there—on the 18th.

Ms SHING: And that is dated the 9th?

Mr COOK: No, this is the 19th.

Ms SHING: So that is the day after. Then there is a meeting at which potential courses of action are written in the way that they are written, to go back to the questions that were asked earlier. So the day after?

Mr COOK: Okay, the course of action, if you go back to it—even the meat standard they tried to put us on—is: when you do a test for listeria in this situation where you have a product where the growth of listeria cannot occur, under food standards you have to do an enumeration. So you take your sample and you grow it out and you say, 'This is it'. She did not have that.

Ms SHING: But the point of my question is that listeria had been detected—

Mr COOK: If—

Ms SHING: Sorry, just so I can finish—the day before those meeting notes are dated. Is that correct?

Mr COOK: That is correct. If by that there is a suggestion that somehow they had to take sudden action because they found listeria, then you know there are going to be a lot of closed businesses in Victoria next week.

Ms SHING: I am not suggesting anything; I am just trying to get the chronology straight in my head. The other thing is: did you have any other contracts with any other shareholder councils? Was it 21 councils?

Mr COOK: Yes. One of the reasons that we were not—and as I said, we never engaged them. I actually rang Joe Ciccarone once, when there were changes to all of the My Aged Care and the national stuff. We actually contacted them, and they thanked me very much for reaching out. He came down and he saw us with

his chairman and said, 'We possibly should maybe lobby together because of My Aged Care and talk about how good Victoria's standard is et cetera. I never heard from him again. That was it.

Ms SHING: You did not have—Dandenong was the only one?

Ms LOVELL: Can I just ask: who is Joe Ciccarone?

Mr COOK: He is the CEO of Community Chef.

Ms SHING: So you did not have any other contracts with any other councils that were shareholders of Community Chef? Not Community Chef proper but the 21, I think we said, that sit underneath the shareholders?

Mr COOK: Yes, that is right. No, they are all shareholders; they have to be shareholders to buy from them.

Ms SHING: Yes, but did you have any other contracts with other councils?

Mr COOK: Only the ones that left. So Monash left and came back to us; Boroondara left and came to us.

Ms SHING: Okay. That is very helpful. Thank you very much.

The CHAIR: My goodness, thank you so much, Mr Cook.

Mr COOK: No problem.

The CHAIR: That was extraordinarily thorough. In some ways I apologise for forcing you to live through some of those moments, but your candour and your extraordinary ability to answer those questions as you have has been really helpful.

Some of the documents that you have mentioned through the proceedings—I think you also mentioned 3000 pages, and we will probably give that a miss, but some of the documents that you specifically mentioned during this hearing—I am wondering if you would be willing to share with the committee.

Mr COOK: Most of the documents I discussed tonight—there were a couple, because a couple of the questions were not what I expected—these can be tabled and left with you, whatever. If anybody has any questions, wants to see any video footage, remember we have an enormous amount of video footage. We can make clips of particular bits or you can see it whole, whatever you would like.

Ms LOVELL: It might be interesting to see a few clips of the pertinent—

Mr COOK: Yes, we can do that.

Ms CROZIER: Or any photographs.

Ms SHING: It might be the brief of evidence. I think you referred to a brief of evidence that was given to VicPol. Was that the 3000-page document or the summary one?

Mr COOK: Just to give you an idea, that is 16 lever arch folders.

Ms SHING: All right. Well, I think that is a bit longer than I thought. I will take that back.

The CHAIR: We are reporting by 30 July.

Ms SHING: Yes. I get that. I am not pursuing that now.

Mr COOK: What I think might be very valid, and Paul has got it here, and it may not be for tonight but at some stage, is that I think it would be important if you take Cr Peter Brown, who came and saw us. I wrote to all the councillors at Dandenong and I explained. In the body camera footage it has been edited. Now, under the *Crimes Act*, under the *Evidence Act*, that cannot happen. Right? These people have broken the law in doing that. I said I wanted that. Because I was charged under that, I am entitled to get it. They will not give it to me.

Ms CROZIER: Why not? What was the reason?

Mr COOK: Oh, there were all sorts of FOI reasons. The classic reason is that it is going to show personal information. What? About an investigating official? Personal information is if I tell your address or your phone number or something. Anyway, that is what they have relied on. So what I did was I wrote to every councillor in the city of Dandenong to just remind them that they were actually aiding and abetting. They were becoming part of a crime. Peter Brown put his hand up and came and saw us and said, 'Yes. You're right'. Peter Brown has a law degree, has taught law all his life. He is a current member of the Labor Party and he is an honest and straightforward man. He said, 'Put politics to one side, I'm interested in the truth here'. So what we did was we sat him down and we showed him what Garlick did. Just two or three things, straight up, and we showed him what she wrote to the Magistrates Court. Paul will tell you, straight up—and I did not know this, Paul—I thought, 'Okay, she's written that'. Paul tells me, as he did straight away, this is premeditated perjury. He said, 'This is extraordinary'.

Ms CROZIER: Who said that, Mr Cook?

Mr COOK: Peter Brown.

Ms CROZIER: Peter Brown. So that was premeditated perjury.

Mr COOK: Yes.

The CHAIR: Thank you. I suspect we could go all night talking about this.

Mr COOK: We could show you some of those things is what I am saying.

The CHAIR: I appreciate that. I think it is also worth noting, particularly for those here but also those watching the broadcast, that a number of people have been mentioned throughout this and many of them will be appearing next week. So there will be more to hear at next week's hearing, and that will include from a number of the people who have been mentioned this evening.

Ms SHING: Just by way of a housekeeping matter, there are freedom of information emails and documentation that was referred to in answer to some of Ms Crozier's questions and then any other summaries or snapshots that I think Ms Lovell had referred to.

The CHAIR: I think Mr Cook himself actually referred to a number of documents.

Ms SHING: Yes. But if that could be provided before the next hearing, that would be helpful.

The CHAIR: I believe that we may have it this evening, Ms Shing.

Mr COOK: Yes, most of that is here.

Ms SHING: Well, that is before the next hearing. That makes me very happy. Thank you very much.

The CHAIR: Here we go. How is that for prompt?

Ms SHING: That is very prompt indeed.

The CHAIR: I am very pleased.

Ms SHING: Yes. Good.

The CHAIR: Mr Brady and Mr Cook, thank you again so much for your time this evening. As I mentioned at the beginning of this hearing, you will receive a transcript of this evening. It will take a couple of days to get to you, but please have a look at it. If you think in any way that we have misunderstood or misrepresented you, please let us know.

Witnesses withdrew.

WITNESS

Ms Kim Rogerson, former Environmental Health Officer, City of Greater Dandenong.

The CHAIR: I would like to declare the Standing Committee on Legal and Social Issues public hearing open again. Again I just remind you if you have done something funny with your phone, turn it on silent again. And I would also again like to welcome anyone who is here today in the public gallery but also who is watching via live broadcast, and that is a reminder that we are being live broadcast. That is particularly for the committee members: someone is watching you.

Ms SHING: We are never under any doubt, Chair.

The CHAIR: As you may have heard before, Ms Rogerson, the committee, as you understand, is hearing evidence in relation to our Inquiry into the Closure of I Cook Foods Pty Limited. All evidence taken at this hearing is protected by parliamentary privilege, and that is as provided by our constitution but also under the standing orders of the Legislative Council. Therefore any information that you provide today is protected by law. However, any comment that you may repeat outside this hearing may not be protected, and any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament. As we have mentioned before, all the evidence is being recorded, and Hansard is over here. You will be provided with a proof version of that transcript, and I would welcome you to have a look at that and make sure that everything that you see there is correct and as you recall it. That will ultimately go up on our website.

Now, this is not a court hearing, as big as this room looks and as bright as it is for this time of the evening. This is a parliamentary hearing, so if you would like to open up in your own words and make some opening comments, and then we will open it up for some questions.

Ms ROGERSON: Thank you, first of all, for having me at this hearing this evening. My full name is Kim Rogerson, and I am currently still employed by the City of Greater Dandenong, although I have not worked since 15 April 2019. That is when I left the premises. I have just got this to read, because there is so much, as Ian has explained. There is so much that I could say, but I think at this stage it is best to just condense it a wee bit.

The CHAIR: In your very own time.

Ms ROGERSON: Previously I was working as an Environmental Health Officer for seven years at Dandenong council, and for just over five years I was one of the environmental health officers—or actually the health officer—for I Cook Foods. I would inspect them on an annual basis. Again, there is a difference between an inspector and an auditor. I am not an auditor, but I do have a science degree in environmental health. I was required to inspect them on behalf of the City of Greater Dandenong. Over the years I had always found I Cook Foods to be a professional operation. Their premises were clean and food safety was a clear priority. At the end of 2018 the Coordinator of Public Health at the City of Greater Dandenong—we had a swap in coordinators—Leanne Johnson, decided to swap areas that each inspector was responsible for. I was moved to a different area, and Elizabeth Garlick took over the area in which I Cook Foods operated. In mid-January Elizabeth Garlick said to me, ‘I think that Leanne put me in this area so I could take people to court’. I was quite worried about this as it was highly inappropriate.

On 31 January 2019 I was asked by the Coordinator of Public Health at the City of Greater Dandenong, Ms Leanne Johnson, to conduct sampling at I Cook Foods. Elizabeth Garlick, who was then the area officer, was not available to do this testing, and I believe I was chosen to take these samples as I knew the premises well. I asked Leanne Johnson what type of sampling was required. She said she did not know—just sandwiches and ingredients, that was about all she could tell me—so I called the Department of Health and Human Services and spoke to Sally Aitkinson. She also could not give me clear instructions. She just said to sample sandwiches and ingredients at I Cook Foods. She told me that there was an elderly woman who had come from a nursing home that may have been exposed to listeria and there was a possible link to I Cook Foods. Sandwiches are defined as a high-risk food and should not be given to the elderly or those with comorbidities, i.e. heart disease, pulmonary oedema, pregnancy—just like soft cheese and things.

I did the sampling at 7.30 am on 1 February. I had not been given instructions to establish a chain of evidence for these samples but I believed this to be important, so I took it upon myself to ensure that a chain of evidence was recorded. I did not do an inspection of the I Cook Foods premises on 1 February because I only had several hours to get the samples to MDU Melbourne pathology unit before the samples would be unusable in terms of their growth and temperature.

I then took time off work between 18 February and early March. While on leave I found out via email that I Cook Foods had been closed. I also found out that John Bennie, the council CEO, had been unable to sign the closure notice as per the *Food Act 1984*, citing a conflict of interest—namely, that council was a shareholder of Community Chef, which is a rival business to I Cook Foods. It did not occur to me before that time that council's conflict of interest would not just relate to the closing of I Cook Foods. At this time I had begun to realise that the conflict of interest also related to council's inspections of I Cook Foods—in other words, my work. That would mean all staff would also have a conflict of interest. So to clear that up, sorry, if the CEO had a conflict of interest, then all the staff that were authorised under that council would also have a conflict of interest. In time I began to describe this conflict of interest to my friends and family as being a bit like giving Hungry Jack's the power to inspect and shutdown McDonald's.

The *Food Act 1984* specifies that if the CEO cannot sign the order of closure, then they must delegate. I do not know how this matter ended up with the Department of Health and Human Services or why Dr Brett Sutton was asked to shut down I Cook Foods. I also do not know why Dr Sutton decided to name and shame I Cook Foods in the media, blaming them for the elderly woman's death. Historically when we close businesses, which does happen, you never give out the name or where they are. It is private; we do it privately.

While I was off work Leanne Johnson contacted me repeatedly on the phone—I was off work for surgery, to clarify that—criticising me and implying that I had failed to properly investigate I Cook Foods. At one stage she said to me I Cook Foods had no idea what they were doing and they were a family business trying to be one of the big boys. I was horrified by her words and her attitude, which were quite vicious—in the manner in which she spoke to me.

On 22 February Leanne phoned me at home and told me that she had had many meetings with the CEO, John Bennie, mayor Roz Blades and Jody Bosman. Jody Bosman is actually a director. Leanne told me that she had told them that council had not done a proper job in relation to I Cook Foods in general. By the time I returned to work it was clear that council was determined to destroy I Cook Foods. I honestly could not believe what I was seeing and hearing. I was shocked that I Cook Foods had been closed the way it was. It immediately became clear to me that council was looking for anything they could find to destroy I Cook Foods, and if they could not find any real evidence it became apparent that staff were willing to make it up.

I was asked to collect data and reports on I Cook and do a statement about the sampling that I had collected. This was in March. I completed this statement that was approximately three pages. Leanne Johnson directed me to go back as far as 2015 and collate information on I Cook Foods. Leanne told me that there was going to be an investigation into the history, my work and all activities of I Cook Foods, including all council policies. In essence Leanne was asking me to investigate myself. I felt Leanne was determined to sink I Cook Foods and me if necessary.

During the days and weeks that followed there were many meetings about I Cook and how I had dealt with the premises over the years. In the middle of March 2019 I was asked by the planning coordinator, Mr Greg Spicer, to change my statement. Greg wanted my statement to form part of a brief of evidence. He wanted me to add information and observations of things that never took place. I was also instructed to delete words and sentences that Greg Spicer and Leanne Johnson felt were 'weak', in quotation, and favoured I Cook Foods. I felt they were determined to frame I Cook Foods and then prosecute them. I thought it was wrong for Greg Spicer to be putting the statements together for I Cook Foods because he had no knowledge or training in relation to the *Food Act 1984*.

While this was taking place Greg spoke of the conviction and the monetary penalties that would result from council going hard on I Cook Foods. Just to put it into perspective, Greg Spicer was the planning and compliance coordinator, so he had nothing to do with the *Food Act*, never worked under the *Food Act*. Greg Spicer said that he wanted all the statements against I Cook to sound the same so we can, quote, 'nail these bastards'—his exact words.

There was another member of staff at council, a senior planning compliance officer, Andrew Brady, who overheard this statement. He left the council job on 5 June 2019 but sent me an email corroborating what Greg had said to me regarding I Cook Foods. Greg Spicer also asked me to make up a scenario and put it in my statement where I supposedly warned Ben Cook that his factory was filthy and should not be operating. This never happened. I never said this to Ben because it was not true, and so I deleted this from the draft statement Greg wanted me to sign. I was not willing to tell Greg's lie in order to destroy I Cook Foods. The statement that I was eventually coerced into signing was 11½ pages long, making it seven pages longer than my initial statement.

Eventually the stress of the situation caught up with me. I had what I now recognise was a kind of nervous breakdown and have not been able to return to work. I have applied to WorkCover, but council is fighting my application. They are spending thousands of dollars with an expensive law firm—I believe it is MinterEllison—to fight me going on WorkCover despite the fact that my psychiatrist, as well as the psychiatrist council employed to assess me not once but twice and an independent psychiatrist, a psychologist and a GP have all recommended I receive WorkCover.

So now my life is in limbo. I believe I am being punished by the council for blowing the whistle and telling the truth. And I should point out that John Bennie, the council CEO, does not just have a conflict of interest when it comes to Community Chef. That is because John Bennie also sits on the board of JLT insurance; that is now part of MAV Care. MAV Care insures the City of Greater Dandenong, and he sits on that board as well. By denying my WorkCover MAV Care obviously saves money for the City of Greater Dandenong. So in essence the CEO of that council that has bullied me into a crippling depression is also on the board of the insurer that is now denying me the WorkCover I need.

The CHAIR: Thank you, Ms Rogerson. I appreciate that would not have been an easy statement to write or share with us today, so I very much appreciate it. Again, we are hearing a number of names here, and I would just further stress that this is not about individuals; this is actually about the closure of I Cook Foods. That is what our terms of reference are looking at. I would also add that next week we are hearing from a number of people in our second day of hearings that have been mentioned through this evening.

Dr KIEU: Thank you, Ms Rogerson, for appearing here today. When you had some problems that you had with the council, had you ever contacted the department about your grievance and your concerns?

Ms ROGERSON: The department of health?

Dr KIEU: The department of health.

Ms ROGERSON: Never.

Dr KIEU: Never?

Ms ROGERSON: No, you do not do that. You go through HR or something like that, but you never go to the department.

Dr KIEU: Now the next question is: you did raise the question about the classification, so according to the *Food Act*, to provide or serve food for people in the vulnerable category, class 2a is able to do so or it has to be class 1, according to your knowledge?

Ms ROGERSON: So there is some discrepancy and a lot of different opinions on that class 1, class 2. Class 2 is normally reserved for cafes and delicatessens, you know, takeaways, that kind of thing, and class 1 is for people that provide food directly to vulnerable people in hospitals, nursing homes, that kind of thing. And as Ian said, he was class 2 or class 2a, which is for high-risk, and provided food for vulnerable populations. But they did not give the food to those people. They went to Meals on Wheels. So he is not really providing the food. He is providing the food to Meals on Wheels. He has no control over what Meals on Wheels then do with the food.

Dr KIEU: So the food went to the hospitals through Meals on Wheels?

Ms ROGERSON: No. Ian could answer that.

Dr KIEU: Just another question from your experience as an inspector in the council of Greater Dandenong. Did you have any other experience or exposure in the past to some of the listeria in particular in that particular geography?

Ms ROGERSON: Yes. Many times we come across a notifiable bacteria or something of that category, and it is usually dealt with quite simply in terms of a cleaning up. Samples are taken, swabs are taken. And after the business has cleaned up and everything is fine, samples are fine, they are reopened very quickly. It has never taken as long as it took for the I Cook. And right from the beginning of this there was just something wrong with this, and that is why I ended up blowing the whistle. There was just something wrong right from the beginning.

Dr KIEU: The level of listeria is found to be low. But from your knowledge—I do not have that knowledge—is there any level that is safe for aged people?

Ms ROGERSON: It is the same level for everyone.

Dr KIEU: The same level for everyone.

Ms ROGERSON: It is just that most aged people usually have some kind of comorbidity and are immunocompromised, the same as young children would and pregnant women.

The CHAIR: Thank you, Ms Rogerson. In your time working in this area obviously you have inspected many businesses, you have had listeria complaints, for want of a better word for it. But it seemed unusual that the Department of Health and Human Services closed I Cook Foods in this way, and I think it was on 19 February that there was a closure. In your experience working in this area have you seen the process that occurred in this circumstance happen before?

Ms ROGERSON: Never. It was highly irregular. I have never seen it. I have been an EHO for 10–12 years, and I have never ever seen the department of health interfere or have such an input in a closure of premises. I believe it was partly due to the fact that the CEO had a conflict of interest and could not—there is a process that you have to go through and he could not sign those orders. But normally he would delegate to someone else, to a second in charge, and he did not even do that—it just went straight to the department. I am not sure, as I was absent during that time, and when I came back from the sick leave I was on I was really kept in the dark. I was not told very favourable things, so I was kept in the dark.

The CHAIR: So Mr Bennie has received, I guess, the advice from your colleagues that I Cook Foods should be closed. Mr Bennie says, ‘I can’t issue that order because I have a conflict of interest’. So are you saying that normally he would just refer that—normally in your experience that would have been referred back down to Mr Bennie’s 2IC?

Ms ROGERSON: He usually delegates to someone. So if he is unable—so if he is on personal leave or wherever he is or he is out of the office, he delegates somebody to take that position for him, so it is delegated by law to someone else. So I am not sure why he did not delegate for it to be signed by someone else. I am not sure what happened there.

The CHAIR: Would Mr Bennie have done this before?

Ms ROGERSON: Oh, yes, many, many times.

The CHAIR: This was something he was well experienced in doing. Thank you.

I Cook Foods was closed for a month. In your experience is that unusual?

Ms ROGERSON: Highly unusual. In fact I have never seen it.

The CHAIR: I guess for such a big production that is quite a big thing. It is one thing to close down a takeaway store but it is another to close down—

Ms ROGERSON: Yes. I have never actually done it. I have worked with the cooks for five years in many really big manufacturers and I have never seen it.

The CHAIR: Okay. Keeping time myself. Again, Ms Shing, you are taking for Mr Tarlamis, and then we will come back to Ms Maxwell.

Ms SHING: Yes, I am. Thank you for your description of what has happened, Kim. I am really sorry; it sounds like it has been a very, very rough time for you and I hope you are okay. I would like to talk about the conflict of interest issues that you have just gone through, not just in your outline but also in response to questions from the Chair. If Mr Bennie had a conflict of interest and your evidence is that everyone else would also have a conflict of interest, to whom should Mr Bennie have delegated the decision to sign the order if nobody else within council was not also conflicted? I am trying to wrap my head around that bit.

Ms ROGERSON: A conflict of interest means if he is the CEO, then the EHOs there and other authorised officers would also have a conflict because we work for the council and he is higher up the chain. He is supposed to delegate it to someone else, but that somebody does not work under the same legislation or the same *Food Act*, but they would still have a conflict of interest because they still work for the council.

Ms SHING: So everyone within the council was conflicted out?

Ms ROGERSON: I believe so, yes.

Ms SHING: So in the absence of being able to go to anyone else within the council to sign that order, where else should Mr Bennie, in your opinion, have gone?

Ms ROGERSON: Well, first off, the conflict of interest is questioned—you know, under question.

Ms SHING: What do you mean by that?

Ms ROGERSON: Meaning whether or not he should have had that conflict of interest, and that is not for me to say. If he chose to go to the department, I have no knowledge of that because I was not in the office at that time.

Ms SHING: So it strikes me from what you are saying, though, that if Mr Bennie has identified a conflict of interest before taking a decision that is against the interests of I Cook, then in fact hasn't he done the right thing?

Ms ROGERSON: Not necessarily if he has got a conflict. Yes, he has owned up and said he has got a conflict of interest, but that conflict of interest affects I Cook Foods.

Ms SHING: Yes, but that is my point that I am trying to get to the bottom of. I am trying to understand how it is that in identifying that conflict of interest he has done something less than the standard required to declare a conflict of interest and to exempt yourself from the decision-making process in the first place. Again, you talk about how you have never seen this happen before.

Ms ROGERSON: No, never.

Ms SHING: I Cook, based on your five years of experience with them and what I think sounds to me like a very close working relationship in terms of the fact that you know each other—you had been working for the Cooks and I think you said for other large businesses, big manufacturers—you had never seen this before. I Cook had never been closed before.

Ms ROGERSON: No.

Ms SHING: At the point at which the conflict of interest is declared, it is around making a decision that was adverse, that negatively impacted upon I Cook. I am trying to understand how that is in fact something that in your mind warranted a whistleblowing situation where in fact he has done the right thing in declaring it. Help me to understand that.

Ms ROGERSON: The whistleblowing was not specifically targeted at any conflict of interest. It was for the falsification of my statement.

Ms SHING: Right; okay. So that then goes back to Mr Spicer, I think you had referred to, and their planning coordinator's request that you change your statements to sound the same so we could, quote, 'nail those bastards'?

Ms ROGERSON: Correct.

Ms SHING: And when was it that you got that request to change your statements? Was it after the 18th?

Ms ROGERSON: Yes. I was not at work.

Ms SHING: So you were on leave?

Ms ROGERSON: In early March, so it was probably around mid-March.

Ms SHING: Okay. So mid-March would have taken us to the period when I Cook was closed.

Ms ROGERSON: I believe they were still closed. I am not aware of the date. As I said again, knowing that I knew I Cook and everything, they kept me in the dark quite a bit. Leanne and management kept me in the dark.

The CHAIR: Ms Shing, you will have another time. You will get your own turn.

Ms SHING: I am happy to just forgo my turn if I can slot in one final thing in here. Based on WorkCover and the issues that you have got that you have talked about and the fact that that might be subject to a separate process—we will leave that to one side—do you have any history of performance assessment or management prior to this particular issue arising with I Cook?

Ms ROGERSON: No.

Ms SHING: So a completely unblemished employment history?

Ms ROGERSON: Yes.

Ms SHING: Okay. Thank you very much for that. There you go. I am done. Silence from here on in.

Ms MAXWELL: Sandra, thank you for coming. As others have acknowledged, this must be a very difficult time for you. My first question, which is what Ms Shing has just asked you in fact, was around your work ethic and professionalism, and has that ever been questioned before. There is certainly no disregard for you in that question, but I think that you have very satisfactorily answered that. My next question is: have you ever been coerced to fabricate documents in any other situation within your career?

Ms ROGERSON: Yes. Dandenong council has a habit of changing statements.

Ms MAXWELL: So what is done about that? What is the process for staff who are actually asked to do that? Does Dandenong council have a policy to ask you to fabricate documents?

Ms ROGERSON: Well, they do not tell you to fabricate. It is more, 'Can you change this and remove that?' or 'Add this'. So they think that they are amending your statement, but they are actually changing the flavour of what you were saying. My statement is my statement.

Ms MAXWELL: So you are saying the actual content and the meaning of the statement is actually—

Ms ROGERSON: And the meaning sometimes, yes.

Ms MAXWELL: Just my last question: when was your last conversation with Dandenong council in regard to their duty of care to support you? If you have had one, what was said in that regard?

Ms ROGERSON: I have not spoken to Dandenong council since I left there on 15 April. I put in for WorkCover on 3 May, so I have not spoken to anyone from Dandenong council and no-one has spoken to me.

Ms MAXWELL: So no-one has reached out to you?

Ms ROGERSON: No-one has reached out, no.

Ms MAXWELL: Thank you, Sandra.

Mr ERDOGAN: Thank you for coming along today to the hearing. I guess I have got a few questions, but I will keep them brief. One point I think you touched on was that the Dandenong council has a habit of changing statements. Have they done this to other businesses before?

Ms ROGERSON: Yes.

Mr ERDOGAN: That are facing—

Ms ROGERSON: Yes. The previous manager would always ask you to change your statement.

Mr ERDOGAN: What about this manager at the time?

Ms ROGERSON: Well, she was fairly new, so I did not have any statements that had to be written. She had only been there a year or 18 months or something—not for that long—and I had not had the need to do a statement concerning any premises.

Mr ERDOGAN: I understand. And you said that you went in on 1 February to the premises.

Ms ROGERSON: Yes.

Mr ERDOGAN: So did you personally collect the food samples?

Ms ROGERSON: I did.

Mr ERDOGAN: But what else did you do besides collect the food samples in your role?

Ms ROGERSON: On 1 February I went in there about 7.30 in the morning. I collected I think 23 samples in all, 12 food and 11 swabs. These samples I took—when you are doing a chain of custody you need a witness and another officer with you, so I took somebody with me and we ‘bagged and tagged’, as we say, and timed and temperature and everything. All food went into an esky with ice so it was temperature controlled, but you have a limited time to make sure all that food gets to where it needs to go.

Mr ERDOGAN: Have you ever dealt with the department before, because you said you did not deal with them on this occasion?

Ms ROGERSON: I called them when Leanne Johnson could not give me adequate information about the kind of samples that we required. I called Sally Aitkinson, and she said, ‘The lady was old. She didn’t know where she ate. She may have eaten here, there—we don’t know’. *Listeria* has a very long incubation, especially *Listeria mono*. It has quite a long incubation period, so she could have had something at Christmas dinner and it still would have affected her. But with also her other things that had affected her health, listeria would have affected her.

Mr ERDOGAN: Just one question, which Ms Shing already touched on but I just wanted to ask again in a different perspective. You said that the council CEO declared his conflict, and from that point on I guess council—you believe as an officer you are conflicted or your investigation is conflicted. In that case, what would be the appropriate body to investigate if council cannot? If council is conflicted, is it the department that is the right body to investigate?

Ms ROGERSON: Normally what happens if he is not there is he delegates, but this has come to the attention afterwards. When you think about the conflict of interest at the time and most of the time that somebody is closed or you need the CEO’s signature and he is not there, he delegates it, so it is delegated up the chain. There are various members that can sign that, so there was always somebody there who could have signed it.

Mr ERDOGAN: But do you believe because the CEO was conflicted the council officers would have been conflicted and that is why they did not sign it?

Ms ROGERSON: Perhaps. Again, it is difficult for me to answer. I was not there.

Mr ERDOGAN: Who can investigate, I guess—in a situation where council cannot investigate, would the department normally investigate? Or you have never seen the department ever in your time?

Ms ROGERSON: No. We would seek advice from the department of health in terms of if it was a notifiable disease of any kind. If it was a food-related issue, if it was an outbreak, we sought clarification from the department in terms of the numbers, where it was. But we were the ones that did the active work in terms of taking the food dyes, the history and all the legal work that was involved.

Ms VAGHELA: Thanks, Ms Rogerson. You mentioned that Dandenong council has a habit of falsifying documents, changing documents. Can you please give me some examples of the situations where the council have asked you to do that?

Ms ROGERSON: There have been quite a number. I cannot give you right now off the top of my head, but many, many times I have been told to change my statement for other cases, for other—

Ms SHING: You might want to take that on notice, if there are things that you cannot provide right now.

Ms ROGERSON: But I do not have access to council—

Dr BACH: Can we show Ms Rogerson a bit of respect and allow her to speak for herself? Is that all right, Chair?

The CHAIR: Mr Bach, please. I think given Ms Rogerson's position and having left the council and the reasons for her leaving—if there are things that you do remember, please feel free to let us know, but I am not going to request any further information.

Ms ROGERSON: I was not there. I left because I could not—

Ms VAGHELA: Yes. I will continue with my questions.

The CHAIR: Thank you.

Ms VAGHELA: I will just continue with my questions.

The CHAIR: Continue, Ms Vaghela.

Ms VAGHELA: So that means you are saying it has happened with other businesses, so why did you not raise or—

Ms ROGERSON: I did raise it many times with the previous manager, who pretty much told me that I was stupid, I did not know my job, he knew what he was doing and that I did not know how to write a statement, even though he was uneducated in terms of what we did.

Ms VAGHELA: So out of seven years that you worked at the Dandenong council, you have had dealings with I Cook for about five years?

Ms ROGERSON: Correct.

Ms VAGHELA: Over those five years, you have been in a situation where council has asked you to change documents for other businesses?

Ms ROGERSON: Yes.

Ms VAGHELA: You kept doing that but for this one, when it came to this, you maybe felt that now it was a time to probably—

Ms ROGERSON: This was over the top.

Ms VAGHELA: Okay. So in terms of the statement that you have prepared today, have you prepared your statement by yourself or have you shown the content of the statement to—

Ms ROGERSON: I have written many statements about this.

Ms VAGHELA: So the one that you read out today, here in the committee, was it prepared by you and in consultation with the Cooks, or is that just your statement?

Ms ROGERSON: I had no consultation with the Cooks at all. I have had very little contact with the Cooks at all. My issue is a separate issue; I am still trying to gain WorkCover and all the other things in what they have done.

The CHAIR: Thank you.

Dr BACH: I might pick up where we have left off, and again, thank you so much for being with us, Ms Rogerson. Regarding this insinuation of your connection with the Cooks, how would you describe your relationship with them? You have obviously worked alongside them—

Ms SHING: No, it is not an insinuation.

Dr BACH: Regarding your relationship with the Cooks, can I ask you a—

Ms ROGERSON: I do not mind answering this question.

Dr BACH: Let me ask the question, Ms Rogerson, if that is all right. Thank you so much. So would you describe your relationship as a personal one or is it a professional relationship that you have with the Cooks?

Ms ROGERSON: Professional. It was only professional.

Dr BACH: All right. Thank you very much. Now, in your experience—because we have talked about the shutting down of the Cooks' business—in your experience, what is the process for shutting down businesses? Would you mind talking us through that, the businesses that have breached the *Food Act*?

Ms ROGERSON: Sure. Normally, with a business that is below par, shall we say, and does not comply with the Food Standards Code, normally, you would have a chat with them and say, 'Look, you know, you really need to step it up' or 'You really need to do'—you know, 'This is what you need to do'. And then you go back the next day or something and you say, 'Okay. Look, you still haven't done this. I can still see rodent faeces; I can still see' blah, blah. And you would say, 'Okay, you need 24 hours. I'm going to give you 24 hours to' X, Y, Z. If it is still not done, then you would start writing notices. Then I would take it to the coordinator to say, 'Okay, here are some photos. This is what I've done. This is how I've done it. Where should we go?' or 'This is how I would like to proceed'.

So I have quite a bit of experience in that. I always like to give people the opportunity to correct details, because sometimes they are only minor details, minor things. There is not any single premises that I have ever been to that you could not find something. There is always something. And every time you do an inspection, it is a psychological, emotional kind of—you know, how to talk them through the process of what they need to do in order to satisfy health standards.

Dr BACH: Thank you very much. Have I still got a little bit of time, Chair?

The CHAIR: Yes, you do.

Dr BACH: Thank you very much. You talked about the report that you wrote and the pressure—

Ms ROGERSON: The sampling, yes.

Dr BACH: yes—that was placed on you to make changes.

Ms ROGERSON: Yes.

Dr BACH: Would you mind talking us through that in a little bit more detail? You talked about the fact that you were both pressured, if I remember correctly from what you have said already, Ms Rogerson, to remove some of the content that you already had in the report, and then to sign off on additional content. Would you mind providing us a little bit more detail about both those elements?

Ms ROGERSON: So my original statement was only approximately three pages long. I was asked to do a statement of my sampling, which is, 'I went to the premises. I took X, Y, Z samples and swabs of here, there and everywhere. I took X food, Y food—blah, blah', you include all those kinds of details, 'I left the premises at what time'—and that was it. So I did not have a conversation with Ben, as he alleged, and I do not believe Ian was there, so there were no further conversations with them. Also because I just had this strange feeling, that is why I chose to take it upon myself to do chain of custody and take a witness with me.

Dr BACH: So what was the purpose of adding in to the report, as you say, these ongoing conversations?

Ms ROGERSON: Mr Greg Spicer had wanted, as I said, all these statements to sound the same—to reflect poorly on I Cook. So when I said they were 'clean containers', for instance, he said, 'Take out the word "clean"'.

Dr BACH: Really? So that was one change he wanted.

Ms ROGERSON: That was one change. That was just one of many. So for instance in my professional opinion—he, remember, never works under the *Food Act* and never has—a clean container is a clean container. It is not a sterile container. It is what you would get your takeaway food in. It is a clean container, and that is what the samples were put into. So he made me take out all of those words that were favourable to the Cooks.

Dr BACH: Notwithstanding the fact that you have said from time to time in your role you were pressured to make changes to documents—quite specifically, by the sound of your testimony—did the nature of the changes that were requested of you here strike you as rather odd?

Ms ROGERSON: At times, yes.

The CHAIR: Just to remind you, Ms Rogerson, everything you say here is completely protected.

Ms CROZIER: Thank you, Ms Rogerson, so much for being here. I know it is very late. You have provided us with some very valuable information in your testimony, so I do appreciate you doing that. I want to go back to the point about Mr Spicer. As you said, he was the Planning Compliance Coordinator.

Ms ROGERSON: Correct.

Ms CROZIER: So why was he put into this position to be acting as an EHO?

Ms ROGERSON: I actually questioned Leanne; I actually did ask that question. I said, 'Why is Greg doing these? He's got no knowledge of the *Food Act*'. She said, 'Oh, he just knows what he's doing'. I just kind of felt that she was trying to pass the—that if something went south it was his fault kind of thing. I am not sure why he was doing it. I am not sure.

Ms CROZIER: So were those reports that were changed and altered then sent to the department of health for the Chief Health Officer to make the decision that he did?

Ms ROGERSON: I am unable to answer that because I was not there, and remember the other officer, Elizabeth Garlick, then took over when she got back to work. All I was involved in was the actual original sampling, which I did not get the results for.

Ms CROZIER: So you are not aware of—

Ms ROGERSON: Of went on, no.

Ms CROZIER: All right. So just in relation to again when you questioned the role of Mr Spicer, to go back to the point of the conflict of interest, I do not understand why the entire council would be in a conflict of

interest and why if he has come into that position, a very specific position in terms of the knowledge that you need to conduct the work that you need to be doing, and he did not have that experience—

Ms ROGERSON: I am not sure why he did it, Greg Spicer. I have no idea as to why he was putting these together. But I know that he was doing it. I was not privy as to why he was putting these together, but as I said, I did ask. But he is not an authorised officer under the *Food Act*.

Ms CROZIER: No, and my next point is if he is not an authorised officer—

Ms ROGERSON: He is an authorised officer under planning, compliance and all the other ones, but not the *Food Act* or the public health Act.

Ms CROZIER: And my next question is: because of this being such a significant decision in terms of the next steps that occurred, if he is not an authorised officer under the *Food Act*, have you had experience of anyone in that position before—

Ms ROGERSON: No, I have not.

Ms CROZIER: taking on the responsibility that he had?

Ms ROGERSON: No.

Ms CROZIER: No. It just seems curious that he had quite a—

Ms ROGERSON: Substantial, yes.

Ms CROZIER: role in this one decision and what happened.

Ms ROGERSON: Yes, correct.

Ms CROZIER: Did anyone else speak to you about their concerns about his position or what had happened?

Ms ROGERSON: No, they did not. It was eerily quiet, if I can say that. There was a lot behind closed doors that I was not privy to, so—

Ms CROZIER: But you did make the point in January that Ms Garlick said, ‘I think they have put me in this area to take people to court’.

The CHAIR: That was Ms Johnson.

Ms ROGERSON: It was Elizabeth Garlick, in mid-January.

The CHAIR: Ms Garlick?

Ms CROZIER: Was it Elizabeth Garlick? She said that?

Ms ROGERSON: Yes.

Ms CROZIER: Why would she say that? In what context?

Ms ROGERSON: Look, I do not know. She was known to enjoy the legal process of making briefs and putting things together and doing all that, and my own belief, or my own feeling, is there were some people that ended up in court questionably.

Ms CROZIER: How many health officers are there at Dandenong again?

Ms ROGERSON: There are six areas, so there are six environmental health officers.

Ms CROZIER: Okay. Just on that one point on the six health officers, were they consistent? Was there any sort of change in the roles that they were doing—like the planning officer with Mr Spicer—during your time? I

mean, I do not understand why they have gone back to the 2015 date. I do not understand why they asked you to go back to that date.

Ms ROGERSON: So they were looking for something. In other words, that might have been around the time I started with I Cook. Now, I think part of it is that there is a big difference between an environmental health officer and an auditor. We are not auditors. The auditors are totally different. We all have science degrees, environmental health degrees, but we are not auditors—right? We are there to do a little bit of this, a little bit of that, a little bit of this, a little bit of that in terms of the Food Standards Code that we work under, but we are not auditors listed with the department of health. So when we go in and do an inspection, we do so on an annual basis. And I do not know whether EHOs should actually be in manufacturers because there is no real need, and EHOs are not trained for manufacturing and the processes, because they are quite complex and EHOs are not necessarily trained, as I said. We have a science degree and environmental health and a lot of different courses and things that we have done. I was also an ex-nurse, so there is a lot of stuff that we do know, but we are not auditors—just to clarify that.

Ms CROZIER: I understand the difference. Thank you.

Ms LOVELL: Thank you for your evidence tonight; it is good. Is Community Chef's facility actually located in the City of Dandenong?

Ms ROGERSON: Good question. I think it is in Cheltenham, so I believe so, but I have never been there and never had any dealings with them.

Ms LOVELL: So given the really important role that local government play in food safety regulation as the regulator and inspector of food safety, do you think it was appropriate that Mr Bennie took a role on a board of a food-producing company?

Ms ROGERSON: You are asking for my professional or personal opinion?

Ms LOVELL: Well, I guess that, you know, this has created his conflict of interest. So is it appropriate that somebody who is playing such an important role puts himself in that position?

The CHAIR: Ms Rogerson, really, it is a personal opinion.

Ms ROGERSON: It is really not appropriate. Really, I mean, it is like, as I said, let's tell Hungry Jack's to go audit McDonald's.

Dr KIEU: Let us talk about the general culture at the city of Dandenong when you have been pressured to change the statement a few times in the past. The last time it was over the top, so you did not agree to that. So, first of all, did anyone know about you in particular being pressured, and is that kind of culture widespread in the city of Dandenong, particularly in your department?

Ms ROGERSON: The previous manager would change statements all the time because he wanted them to sound a certain way or whatever, and I am not sure whether he was in the transit police or anything and if he wanted them to be written how a police report would be written. But it is a little bit different when you are talking about food and bacteria and viruses and temperature control. It is little bit different, and it is more difficult to understand. So I am not sure why he did that and why he did not just accept my statement for my statement, which you would normally do in a court of law when you give evidence.

Dr KIEU: Is it a widespread culture?

Ms ROGERSON: It was, yes.

The CHAIR: Thank you. Ms Maxwell, I know you wanted to just quickly cover something off.

Ms MAXWELL: Yes, just quickly. I know it is late and everybody is tired, but I just wanted to say, Ms Rogerson, an apology for calling you by your Christian name previously.

Ms SHING: I did it too. It has been a long day. My apologies.

Ms ROGERSON: That is okay. Something else that I would like to point out: we talk about food as ready to eat or not ready to eat. So ready-to-eat food is a salad or a sandwich; it is ready right now, ready to eat. So if it is not ready to eat, it means it needs to go through heat processing to over 75 degrees. And we look at that kind of thing, the holding temperatures in bain-maries for temperature control, because the temperatures that bacteria like, as Ian says, are between 5 and 60. So these are the things that we look at in terms of safety—not necessarily the ponding of water. That is not necessarily going to affect the food that is ready to eat right that second. So it is about risk. We really look at the risks and how to apply them to the business.

The CHAIR: Thanks for that clarification, Ms Rogerson. It sounds like it is an extraordinary but impossible science to get everything perfect, but yes, this is about risk management. I very much appreciate your time. I appreciate everyone's time, the committee members' time. Thank you for making this time at such a late hour. Ms Rogerson, we will send you, as I mentioned, a transcript of this evening. We greatly appreciate you giving up your time for us this evening. And I think we can declare the hearing closed. Thank you, everyone.

Committee adjourned.

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the Closure of I Cook Foods Pty Limited

Melbourne—Wednesday, 24 June 2020

MEMBERS

Ms Fiona Patten—Chair

Dr Tien Kieu—Deputy Chair

Ms Jane Garrett

Ms Wendy Lovell

Ms Tania Maxwell

Mr Craig Ondarchie

Ms Kaushaliya Vaghela

PARTICIPATING MEMBERS

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Ms Melina Bath

Mr Rodney Barton

Ms Georgie Crozier

Dr Catherine Cumming

Mr Enver Erdogan

Mr Stuart Grimley

Mr David Limbrick

Mr Edward O'Donohue

Mr Tim Quilty

Dr Samantha Ratnam

Ms Harriet Shing

Mr Lee Tarlamis

WITNESSES

Mr John Bennie, Chief Executive Officer,

Mr Jody Bosman, Director, City Planning, Design and Amenity,

Ms Mandy Gatliff, Manager, Community Care,

Ms Elizabeth Garlick, Environmental Health Officer, and

Ms Leanne Johnson, Coordinator, Public Health, City of Greater Dandenong.

The CHAIR: I declare open the Standing Committee on Legal and Social Issues public hearing. Please could everyone ensure that their mobile phones are turned to silent.

Let me please begin this hearing by acknowledging the Aboriginal peoples, the traditional custodians of the various lands each of us are gathered on here today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings. I would also like to welcome anyone watching the broadcast of these proceedings.

We have had some apologies from some members of the committee. Ms Shing is appearing via videoconference.

The committee is hearing evidence today in relation to our Inquiry into the Closure of I Cook Foods. All evidence taken at this hearing is protected by parliamentary privilege as provided by the *Constitution Act 1975* and also our standing orders in the Legislative Council. Therefore any information that you provide today is protected by law. Any comment repeated outside may not be protected. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

As you can see, this evidence is being recorded. We will provide you with a proof version of the transcript. As you can see, Hansard is here to undertake a very accurate record, but I would encourage you to have a look at it and just make sure we have not mistaken anything or misinterpreted anything in any way. Ultimately it will be made public and posted on the committee's website.

Now, I know you have discussed with the secretariat the format of this, and I appreciate you making some changes to that. I think given the size of the committee, which means we have limited time for questions, we would welcome you making your opening remarks and then we will open it up to the committee, where they will have limited time for questions. Thank you very much.

Mr BENNIE: Thank you, Madam Chair. We had of course communicated with the secretariat, and we had impressed upon the secretariat that we were accommodating and flexible in terms of how you wanted to operate—

The CHAIR: We are very appreciative.

Mr BENNIE: So notwithstanding that our approach has changed slightly, we are very happy to meet your requirements. My name is John Bennie. I am the Chief Executive Officer of Greater Dandenong City Council. I have held this position since 2 October 2006.

I thank the committee for the opportunity to make public a number of pertinent and evidenced facts that will explain and justify council's actions. As well as touching on related matters, I will directly address concerns the committee may have arising from the evidence given to the committee last week by Ian Cook, Paul Brady and Kim Rogerson.

With the committee's permission, I would like to do three things before answering any questions which committee members may have, and some of this has changed but some of it is still relevant. First, I have compiled some relevant documents for the assistance of the committee. Reference will be made to a number of

these documents, and I have now, via the secretariat, handed each of you a copy of those documents that include a number of tabs.

The CHAIR: I just want to ensure everyone has got copies—great, thank you.

Mr BENNIE: Secondly, I would like to outline the proposed arrangements for this morning's presentation to the committee, which have now been changed. The arrangements had been approved by the senior committee manager of Legislative Council standing committees, but to, I guess, reintroduce those who will be speaking, following me will be Mr Jody Bosman, council's Director of City Planning, Design and Amenity, and then Ms Leanne Johnson, council's Coordinator of Public Health. Seated behind us is Ms Mandy Gatliff, council's Manager of Community Care, and also with Ms Gatliff is Ms Elizabeth Garlick, Environmental Health Officer. Under the revised arrangements we can bring those people forward to answer questions as you require.

Thirdly, I intend to read a brief statement that will both provide an overview of council's position and deal with the allegation that I somehow acted improperly in declaring a conflict of interest or allowing council to regulate I Cook Foods, and all other foods businesses within council's municipal district, when I had a conflict of interest.

As an overview, Mr Cook suggested that council had an agenda to target I Cook Foods and close down his business. This is completely untrue. There is and was no premeditated attempt to regulate I Cook Foods out of business and somehow give Community Chef a commercial advantage. Council's investigation of I Cook Foods commenced only after notification from the Department of Health and Human Services that an elderly woman had died in circumstances where the evidence suggested a possible link with food supplied by I Cook Foods. As Ms Johnson and Ms Garlick will explain, the investigation was conducted professionally and ethically. At no point did I direct or cause anyone else to direct them to achieve a particular outcome. Mr Cook also appeared to suggest that, quite apart from a council agenda, there was something of a conspiracy between council and the chief health officer and/or DHHS to target I Cook Foods or to destroy I Cook's business. There was no such conspiracy. At no point during any discussions with the Chief Health Officer or DHHS was there a suggestion that anyone should deviate from accepted practice or act unethically. The point I want to make—and here I will be very direct with the committee—is that council and its staff have acted with integrity throughout.

I do want to comment briefly on some of the other evidence given by Mr Cook and in turn the evidence of Kim Rogerson. As to Mr Cook, firstly, he implied that I Cook Foods had in many years of operation an unblemished record. It might be true that I Cook Foods was not previously prosecuted. A search of council's record does, however, reveal that a number of complaints about I Cook Foods, including complaints relating to the presence of listeria, were made between April 2016 and June 2018. The complaints are summarised behind tab 1 in the folder of documents that you have. On each occasion I Cook Foods was asked to respond and where appropriate take corrective action. Throughout this period Kim Rogerson was the environmental health officer primarily responsible for overseeing I Cook Foods's compliance with *Food Act* obligations.

Secondly, Mr Cook told the committee last week that he had not hired a PR firm to represent his company's interests. I therefore find it surprising that media releases have been published by Hear Hear Communications, a public relations company, providing extensive quotations that are critical of council.

As to the evidence given by Ms Rogerson, firstly, contrary to what she said last week, I am not on the board of JLT, which I understand to be a reference to Jardine Lloyd Thompson Pty Ltd, or MAV Care, which is a board of the Municipal Association of Victoria that oversees a self-insured WorkCover scheme for Victorian government. I am, however, on the MAV Insurance board, but this does not have any connection with WorkCover claims brought by any local government employees, including Ms Rogerson herself.

Secondly, she wrongly said that there had been no attempt by council to reach out to her following her departure on sick leave. A number of attempts were made to make contact with her and provide support. It was Ms Rogerson who made it clear that she did not wish to engage with anyone from council. Ultimately this was reinforced by a letter from her legal advisors in which there was a specific request not to attempt to make any contact with her. And thirdly, she omitted to mention that her allegation that council had 'pressured' her to fabricate evidence and make a false statement was investigated by the Ombudsman and found to have no substance.

Can I ask members of the committee to look behind tab 2 of the folder that I have provided to you. There you will see an email sent on 24 July 2019 on behalf of the Ombudsman. The email notifies council's director of corporate services that, having reviewed the information provided by Ms Rogerson and council, the Ombudsman will not be taking further action. I ask the committee to look at the section of the email from the Ombudsman to Ms Rogerson which appears below the Ombudsman's email to council's director of corporate services. Specifically I ask members to look at the section headed 'Falsification of documents'.

It is clear that the Ombudsman found no evidence of any attempt to put undue pressure on Ms Rogerson to do anything that was unlawful or unethical. Her evidence about fabrication or falsification of evidence has, then, already been objectively assessed and found to be without substance.

While looking at the email from the Ombudsman to Ms Rogerson, can I also request that committee members look at the next section, 'Conflict of interest'. It is to this issue of my conflict of interest, and council's so-called conflict of interest, that I now turn.

In the matter of conflict of interest I firstly say members of the committee will appreciate that Victorian councils have multiple roles and perform a variety of functions. For relevant purposes, they are simultaneously a service planner, a service provider and a regulator. Each council must plan for an ageing community or, more particularly, must ensure that adequate services are provided to ageing members of the community. Further, having planned in this way, a council must provide services to those aged members of the community who require such services, including the provision of meals. Finally of course a council must also regulate food business compliance with the *Food Act*.

Secondly, traditionally Victorian councils provided services directly through a Meals on Wheels service operated by council staff, so council staff would both prepare food and deliver it to the members of the community. By 2006 many Victorian councils found themselves in a position where the costs of producing meals was significantly increasing and tenders for external providers to prepare the meals were met with limited competition. Greater Dandenong council was one of those councils. When I began as council CEO in 2006 council was looking at needing to find \$1 million—in 2006 dollars—to upgrade its kitchen facilities to meet relevant food safety standards. Concerns about the ability of metropolitan councils to continue to fund Meals on Wheels services to an adequate level led to discussions about the possibility of a wholly council-owned entity operating a regional kitchen facility. Greater Dandenong City Council was one of the metropolitan councils to join in the exploration of this possibility. Ultimately it led to the creation of a new company, trading under the name Community Chef, which: (a) was owned by number of councils—I understand that there are currently 17—as shareholders; (b) has been operating from a purpose-built kitchen facility in Altona since its creation; and (c) since 2010 has been providing meals to councils in accordance with contracts entered into between Community Chef on the one hand and a council on the other.

Thirdly, when it was formed, the board of Community Chef was to comprise a mixture of council representatives and independent directors with commercial experience and expertise. I was asked to join the board. I was a board member between December 2007 and 2011. I left the board feeling as though it had established itself as a viable and successful service provider and helped contain costs within this area of local government sector operations. In December 2017 I was asked to rejoin the board to help maintain the balance between council and independent directors. I remained on the board until May 2019, when I stepped aside from the board pending the outcome of any IBAC or related investigation and subsequently any assessment of matters involving Greater Dandenong City Council and I Cook Foods Pty Ltd. This action is recorded in my key management personnel declaration form for Community Chef.

Fourthly, I now come to the events of February 2019. I had not been involved in any aspect of the investigation into I Cook Foods or Mr Cook. I knew little about it. On 21 February I was advised by members of council's staff that the Acting Chief Health Officer had formally and urgently requested that council issue an order that I Cook Foods cease production immediately. This, I was told, was an imperative because the order needed to be served before production resumed the following morning, being 22 February 2019. I was informed that the Acting Chief Health Officer wished to speak to me without delay.

I knew that Community Chef's operations had extended beyond the provision of meals to councils and included the provision of meals to hospitals. I therefore knew that the closure of I Cook Foods for any period would create a vacuum that Community Chef may fill. I therefore recognised that I had a conflict of interest.

I looked to see whether I could delegate that decision to another. Can I ask committee members to look behind tab 3 of the folder, where section 19 of the *Food Act* is set out, and I do not expect that you will be able to glance at that and fully absorb it, but it is there for your consideration. You will see that section 19(2) provides that a relevant authority can make a written order that a food premises must do certain things. Section 19(3) then provides that a relevant authority may, in that order, direct that until the mandated steps are taken the food premises are not to be used for the preparation of food. Section 19(9) sets out who is a relevant authority: paragraph (b) refers to a council and paragraph (d) refers to the CEO of a council.

Can I ask you now to look behind tab 4. It sets out section 58A of the *Food Act*. It defines who can be delegated a power by council. When, on 21 February, I met with Jody Bosman to discuss the proposed closure order, it became obvious that there was a problem. I had a conflict of interest and could not make the closure order. Section 58A did not appear to permit a delegation to another member of council staff. This is because section 19 is not referred to in section 58A.

Jody Bosman, Leanne Johnson, Daniel Maltar, who was the acting manager, regulatory services, at the time, and I telephoned the Chief Health Officer on the evening of 21 February. I explained that I could not sign the closure order because of the conflict of interest. I also explained that, in my opinion, no other member of council staff had the power to sign or issue a closure order. Contrary to Mr Cook's assertion, only Jody Bosman, Leanne Johnson and Acting Manager Daniel Maltar and I participated in the telephone call. Cr Roz Blades, who was mayor at the time, was not present.

The Acting Chief Health Officer accepted my advice as to the existence of the conflict of interest and indicated that he would sign the closure notice. It was, however, agreed that given the urgency of the situation, members of the council staff would serve the closure notice by attending I Cook's premises. Eventually therefore the closure order was signed by Dr Brett Sutton and arrangements were made for council staff to serve the closure order the following morning.

The fifth point, I wish to quickly mention two other things, both related to this conflict of interest issue referred to by both Mr Cook and Ms Rogerson in their evidence: (a) the suggestion that council's involvement in Community Chef created a conflict of interest for all members of council staff and tainted what they did is ill founded. Those performing regulatory functions on council's behalf, including Ms Rogerson, Ms Johnson and Ms Garlick, had no role to play in council's interface with Community Chef. There was a clear and strict separation of roles. And (b), if I had attempted to delegate my section 19 closure powers to another member of staff, such as Mr Bosman, and I repeat that we came to the view that this was not legally permissible, the criticism of me would have been that I was delegating to somebody who was answerable and accountable to me. The suggestion would then have been that the other member of staff would not have been independent of me and would have been influenced by my membership of the Community Chef board.

Chair, thank you for your patience. This was all I wanted to say by way of introductory comments. Council fully cooperated with the Victorian Ombudsman's inquiry into this matter and was pleased to be cleared of any wrongdoing. We are similarly happy to work with the committee through its inquiry process, and I am happy to answer any questions, as are my colleagues. I will now, as you previously requested, hand over to Mr Bosman, who will be followed by Ms Johnson.

Mr BOSMAN: Dear committee, I am Jody Bosman, Director, City Planning, Design and Amenity, at the City of Greater Dandenong. The local government function of public health falls within my directorate. In respect of my involvement in and knowledge of the matter pertaining to I Cook Foods Pty Ltd, I wish to address the committee on some matters pertaining to I Cook Foods.

It is clear that there are two distinct matters—the closure of I Cook Foods by order of the Department of Health and Human Services related to investigations into a listeria link between food manufactured by I Cook Foods and an elderly patient being diagnosed with a Listeria poisoning, which elderly patient subsequently passed away. The second matter is that relating to the involvement by council environmental health officers in a series of inspections of the I Cook Foods premises resulting in the discovery of 48 breaches of the *Food Act* and the issuing of Magistrates Court charges by council for those breaches. It is in relation to the charges brought against I Cook Foods as well as against Ian Cook as the director of the company and my subsequent decision to not proceed with those charges that I now address before the committee.

So what were the charges brought against I Cook Foods? In collaboration with DHHS health officers, council's environmental health officers inspected the premises and found numerous breaches of and non-compliances with the *Food Act*. It is council's responsibility to ensure that all food-related premises in the City of Greater Dandenong comply with the provisions of the *Food Act*. It is also council's primary objective to ensure public safety and confidence by all members of the community who consume foodstuffs manufactured in the City of Greater Dandenong. The *Food Act 1984* is the legislation which regulates the manufacturing, handling and disposal of food for human consumption. The administration and enforcement of that Act is of vital importance in meeting community expectations of food safety and hygiene standards being met.

Council brought 48 charges in the Magistrates Court against I Cook Foods. It alleged that I Cook Foods had failed to meet the requirements of the *Food Act*, putting public health at risk. Amongst the charges were the following, and I will give you some examples. Sampling of food sold to Whitehorse City Council returned a positive test for the presence of *Listeria monocytogenes*. Necessary steps to prevent the likelihood of food being contaminated were not taken. There was a build-up of dirt, debris, residue and other matter observed on a number of fittings, fixtures and equipment throughout the premises. Trolleys in an unclean condition were also observed. Unsafe food handling practices were observed. The handbasin in the hospital food preparation area was observed to be non-functional. The food order that this handbasin be made functional had not been complied with at the time of a subsequent inspection, and an audit undertaken by a DHHS-accredited auditor identified that the food safety program was not compliant. Two—but only two—of the charges brought related to the slug found at the premises.

The sum of the seriousness of the breaches of the *Food Act* clearly demonstrated a food manufacturing business which had put public health at risk over a period of time. Breaches of the *Food Act* carry with them significant penalties for that reason, and on the basis of the evidence presented to me, I gave my approval to proceed with prosecution. It is standard operating procedure for council to issue charges against both a body corporate—a company—and the director. This is also standard prosecution practice by local government authorities in enforcing *Food Act* offences. Further, the *Food Act* provides for liability of officers of companies for specific offences under the *Food Act*, even in circumstances where the body corporate or the company has not been prosecuted or found guilty of an offence.

Why then did council withdraw the charges against I Cook Foods? During the lawyers' conference at the contest mention at the Magistrates Court on 3 October 2019 I received a telephone call from council's barrister, Sebastian Reid, explaining the consequences of pursuing charges and the probability of success of appeals for I Cook Foods should it be found guilty in the Magistrates Court. The lawyers acting for I Cook Foods had put a proposition that both parties walk away from the charges on a non-disparaging basis and each bear their own costs to date. The lawyer for I Cook Foods had been instructed to contest every single charge and advised council's barrister that in the event of the matter going against I Cook Foods in the Magistrates Court they would exhaust every avenue of appeal irrespective of the costs involved.

It is important to stress that the charges for 48 breaches of the *Food Act* brought against I Cook Foods on 14 June were not withdrawn because council considered the charges to be without foundation or because it was doubtful of its prospects for success in prosecuting the case, but rather because pursuing charges of those breaches through the various court levels, including courts of appeal, could have resulted in legal costs to council in the order of up to \$1.2 million. To pursue breaches of the *Food Act* prosecution of a business which was by then in compliance with the *Food Act* was not considered to be prudent use of the public purse. The potential cost to ratepayers was the sole reason for the charges being withdrawn.

In reality I was presented with a situation where within a 5-minute telephone call I had to assess the merits of pursuing or withdrawing the charges. Thus was the decision to withdraw the charges taken at the contest mention hearing on 3 October 2019. Madam Chair, in no way should the withdrawal of the charges be seen as I Cook Foods being cleared of *Food Act* non-compliance or a more general vindication of I Cook Foods' position. Thank you, Madam Chair.

Ms JOHNSON: Members, I apologise, the folder with my photographs that I am to table has been taken off me by Lilian and a copy of my report for each of you is also with Lilian, which is not ideal.

The CHAIR: I am sure she will bring them back.

Ms JOHNSON: So I do have photographs that accompany the report today should you wish to see them.

The CHAIR: Great. Thank you, Ms Johnson. I might actually ask if we might share them around the table.

Ms JOHNSON: Sure. Sorry, they are going to be slippery because they are in plastic pockets.

Ms CROZIER: Is that wise, given—

The CHAIR: With corona. Sorry, yes, we cannot do that.

Ms JOHNSON: I am happy to make more copies and provide them to the committee.

Mr BOSMAN: And leave them with you so that you can see them.

The CHAIR: Yes. Thank you.

Ms JOHNSON: I am Leanne Johnson, Public Health Coordinator at the City of Greater Dandenong. I am also an authorised officer pursuant to the provisions of the *Local Government Act 1989* and the *Food Act 1984*. My interaction with I Cook arose out of a notification of *Listeria monocytogenes*. *Listeria monocytogenes* is a food poisoning bacteria that has the potential to cause severe illness in people, including infections in pregnant women, where around 20 per cent of cases may result in spontaneous abortion or stillbirth. The bacteria also has the capability of being fatal, and in this case it is around 30 per cent of cases. In particular it is deadly towards the aged and immunocompromised—those with poor immune systems. A significant portion of I Cook Foods' clientele is in this category.

I Cook Foods is a large manufacturer that produces food for premises, including meals for Meals on Wheels services, hospitals and nursing homes. A variety of sandwiches intended for the consumption by hospitalised persons are also manufactured at the I Cook Foods premises. The initial investigation concerning *Listeria monocytogenes*, as you have heard, involved an 86-year-old female person that had a confirmed diagnosis of listeriosis and was known to have consumed high-risk foods supplied by I Cook Foods. I am now going to discuss the chronology of events, and a copy of that is with the report.

On 31 January 2019 council was contacted by the communicable disease prevention and control unit at the Department of Health and Human Services. The department was investigating the case of an 86-year-old person, already mentioned. Officer Kim Rogerson was previously the officer for the area in which I Cook premises was located and was familiar with the premises, as she had inspected it many times over the years. Upon notification and a check of immediately available staff members, Officer Rogerson was assigned the task of conducting an inspection of I Cook Foods premises and undertaking the necessary food sampling requested by the department. Some of these samples taken by Officer Rogerson came to show the presence of listeria. In the end, these samples were not relied upon, because it was discovered that Officer Rogerson had not properly maintained a chain of custody. On 1 February 2019 Officer Rogerson visited the premises and took samples and surface swabs for analysis. On 18 February the food safety unit of the department contacted council to advise that some of the food samples obtained on 1 February had tested positive for *Listeria monocytogenes*. The presence of *Listeria monocytogenes* in a food premises at any level is a serious concern and requires immediate action to remove the presence and the serious risk it presents.

Officer Garlick, being the environmental health officer responsible for this area, then attended the site. At this time Officer Rogerson was on leave. On her return, Officer Garlick reported that during her inspection poor food handling and cleaning practices had been observed, and they are included in the photographs to be tabled. The non-compliances included aerosols created from using high-pressure hoses to wash down food preparation areas while food handling activities were still occurring, dirty food handling equipment that had not been cleaned properly, a handwash basin not in operation, staff not demonstrating the skills and knowledge to handle food safely and a slug found on the floor in the food preparation area that would come to my attention days after the event.

As a result of Officer Garlick's report I formed the opinion that the premises were not being maintained to the required food safety standards and directed that two *Food Act* orders be issued. These are formal legal directions, but they are not to be confused with the closure order that was issued later. Those orders directed the company to put the premises into a state of good repair; to ensure that foods prepared, sold or otherwise

handled are safe and suitable for human consumption; and that all food handlers complete food safety training. On 19 February the food safety unit at the department again contacted council; it requested council to obtain specific information from I Cook Foods for the purposes of the listeriosis investigation and required the business to conduct a specific clean-up for *Listeria monocytogenes*. Officer Garlick and Officer Little-Hales attended the I Cook Foods premises to conduct an inspection later that day, instructing I Cook Foods to conduct a clean-up and serving the *Food Act* orders that had been issued.

Over the course of the week council liaised with the department about the listeria investigation. On 20 February Officer Garlic inspected I Cook Foods premises to verify that the clean-up had been adequately carried out. She informed me that she was not satisfied that the cleaning had been conducted to a satisfactory standard. On the same day I attended the food premises together with Officer Garlick. We spoke with Mr Ben Cook and Mr Michael Cook on site. I told Mr Ben Cook that council had concerns with the quality of cleaning that had been conducted. I said that given that I Cook Foods had been the subject of a complaint about listeria, the business needed to ensure that it cleaned the premises thoroughly. At the time of inspection, the business had already completed food operations for the day and in theory should have completed the majority of the daily cleaning. The inspection of the premises was conducted with Mr Michael Cook, the food safety supervisor of the premises. Throughout this inspection significant food safety non-compliances were identified, and again these are captured in the photographs. Ovens located outside the kitchen in an open area and located through a cleaning area were being used to cook meat, a handwash basin in the sandwich preparation room was not working and potentially contaminated large plastic bread crates were used for transporting sandwiches. When asked where the crates were washed, Mr Michael Cook led me outside the building to a driveway and to a bin wash area and said that the crates were being washed there—a photograph is also available.

There was food residue on the blades of food equipment that had not been cleaned properly, dishwashing sinks in close proximity to food equipment allowing for splashing onto equipment and thus the risk of cross-contamination, water pooling between the stainless steel bench and the conveyor belt where the sandwiches were made, water pooling on the floor in the food preparation areas, flooring in disrepair that would prevent the surface from being effectively cleaned and sanitised, a brown slime in water that had built up on the draining board under the bread crates at the dishwasher and food residue found on the meat slicer when it was taken apart.

From the inspection it was evident that food safety was compromised by significant cross-contamination risks due to the food processes not being segregated from clean-up processes, poor hygiene practices and a lack of skills with the key staff. I therefore recommended to I Cook Foods that it engage a food safety consultant to conduct a full risk assessment. The recommendation was followed up in an email that day to Mr Ben Cook. I then notified the department of the non-compliances identified at the inspection. On 21 February I discussed with the department's food safety unit the food safety concerns identified. It was agreed that I Cook Foods' food safety practices needed to change immediately. This included its cleaning practices and training of food handlers. Later on 21 February I visited I Cook Foods' premises with Officer Garlick to conduct an inspection. The purpose of the inspection was to follow up on a full clean that was scheduled the night before and to take new food samples, and this was to check the efficacy of cleaning measures and food safety practices. An onsite meeting was held with Mr Ben Cook, where photographs from the previous day's inspection had been provided and the following was discussed: poor food safety practices identified in the previous day, including cross-contamination risks and poor hygiene practices; staff needing training so that they had the skills and knowledge to handle food safely; concerns that Michael Cook was not suitable to be I Cook Foods' nominated food safety supervisor as he had demonstrated that he did not have the necessary skills or knowledge to identify or alleviate food safety hazards; that the department had discussed with council the option of closing, and if this was the case production would cease that day; that as a decision had not been made to close the premises, however, I did tell them I needed to be satisfied that the staff know how to clean, sanitise and understand food safety risk; council recommended that I Cook Foods engage a food safety consultant today or tomorrow and to conduct a full risk assessment. The actions that I Cook Foods had completed by this time included three large pieces of equipment being removed from operation, including a meat slicer; blades from food equipment that had not been properly cleaned now replaced and the conveyor belt that had been removed from the sandwich preparation bench; and the head chef had trained all the staff on how to correctly wash their hands.

During the meeting it was established that I Cook Foods did not have a food safety supervisor that had completed food safety training. It would be expected for a large manufacturer who was HACCP-accredited to be trained in it. This is a process for identifying food safety issues and for putting in place controls to remove

those dangers. Mr Ben Cook had completed a bachelor of business in hotel management and tourism and commercial cookery, and he had completed the food safety supervisors course, but Mr Michael Cook was the food safety supervisor and Mr Ben Cook was responsible for updating and maintaining the food safety program and that when all food handlers are engaged they have a two-day theory course—

The CHAIR: Ms Johnson, just in regard to timing, this is all presented in the information that you have provided to us. Another couple of minutes, but if you could wrap up so that we can try and keep to the tight time line that we have got.

Ms JOHNSON: Sure. So I had responded to I Cook's premise of the incident that was occurring and the findings that we were identifying, and then during the inspection that day we also identified that staff were washing vegetables and equipment in the same double-bowl sink unit; there was no food-grade sanitiser at the sink for staff to adequately sanitise the sink after use; a handwash basin was obstructed where foods were being minced; a hand basin still not operational in the sandwich preparation room; damaged equipment; and there was a hose used for both preparing foods, filling pans and washing the floors. There were no food processes segregated from the clean-up practices, allowing ample opportunity for cross-contamination to occur; trays that had been cleaned still with food residue on them; and the scullery area was overflowing with dirty equipment to be cleaned where the dishwasher was required to use a metal tray—

The CHAIR: Thank you, Ms Johnson. Thank you all for your willingness to share this information with us today. I have certainly found it very useful. We are now going to ask a series of questions. All of the committee members have got 12 minutes, which we will keep very, very sharply. I will allow them to ask a couple of questions and then move on to the next committee member. I shall start those questions.

Mr Bennie, you stated that the Ombudsman was satisfied with the procedures and processes that the council had followed. The email that you have provided to us I would say does not really go to that. Was there other correspondence between yourself and the Ombudsman? The email that we have received really refers to Ms Rogerson's assertion that there was a conflict of interest, her assertion around her WorkCover status and her assertion around her report being falsified. But I think there have been questions about the processes and procedures at a more general level that were undertaken. And, yes, did you have—

Mr BENNIE: Well, we do not suggest that the Ombudsman was considering anything more than the Ombudsman has reported on. So what we are referring to is that when Ms Rogerson made her whistleblower complaint we immediately referred that matter to IBAC. IBAC in turn referred the matter to the Ombudsman, and the Ombudsman has given consideration only to the matters raised by Ms Rogerson. So the response relates to the allegations that she had made and nothing more. And that is all we contend: that the response to the key assertions that she has made around my conflict of interest and the undue influence that it is alleged we or a member of our staff provided over her to change her report is adequately addressed in that Ombudsman's review.

The CHAIR: Thank you, Mr Bennie. Ms Johnson, on the subsequent charges that were then brought to I Cook Foods—48 substantial charges—it seems that some of the charges surely would have seemed to relate to longstanding issues, if they are the case, of floors not actually with the right angle for drainage, the pooling of—I am just trying to remember the rest off the top of my head. Is there any reason why none of this was noticed prior?

Ms JOHNSON: It had been picked up in numerous reports over the years, and it was noted on their file that in 2017 I Cook Foods did a significant repair to their floors, and at the time of the inspection with Mr Michael Cook he noted to me that it was ongoing maintenance.

The CHAIR: Okay. I will continue my questions later. Dr Kieu?

Dr KIEU: Thank you for presenting today. We have heard some differences and also contradictions to the hearing that we had from I Cook. Particularly I was under the impression that I Cook did not have any [inaudible] in the handling of the food in the past, but there are some submissions here that there were some with the City of Boroondara. I just want to ask one question particularly to Ms Johnson about the level of *Listeria mono* in particular. Is there any safe level? You mentioned that 30 per cent could result in fatalities, but then the report and the submissions said that the level found in I Cook samples was below the admissible or allowable standard level. So what is your opinion on that?

Ms JOHNSON: For the general public, if you are well and healthy, there is a standard. However, food being served to the immunocompromised and our vulnerable, which is our elderly people, is considered potentially hazardous. And the previous history of listeria at this premise—analysts reports have actually stated that. They have a clause saying where being served to vulnerable people, it is a potentially hazardous food when you have *Listeria monocytogenes* present.

Dr KIEU: So why isn't it incorporated into a standard of operation? I was under the impression that a certain level of contamination is acceptable.

Ms JOHNSON: No, it is not acceptable in a food premise.

Dr KIEU: Okay, thank you. Now my next question is for the CEO. During her submission and appearance Ms Rogerson mentioned that there was a culture of changing the records or intimidation. What is your response to that?

Mr BENNIE: Well, my response to that is, I hope, detailed in the Ombudsman's response to that very same query, and that is that the Ombudsman—and if I can refer specifically to it—has concluded that the efforts undertaken by council in relation to the matters raised by Ms Rogerson were, the Ombudsman's representative states:

On the face of the draft and final versions of your statement, it appears the changes made represent a natural progression from draft to final format. The first draft appears incomplete. In contrast, the final signed version appears complete and includes paragraphs about the types of swabs you obtained, how they were obtained and where the swabs were sent to. I have been unable to identify evidence to suggest that the expansion of your statement was due to other council officers falsifying the evidence.

Dr KIEU: I would like the other members to ask questions. If we have time, we will come back to this.

Ms CROZIER: Thank you all for being before us. It is an important inquiry, and we are looking to understand what has gone on here. Ms Garlick, I will just go straight to you. There have been reports and allegations that a slug was planted, that you found. Did you plant that slug?

Ms GARLICK: No, I did not.

Ms CROZIER: Okay, so in relation to the issues that are arising from you going into I Cook Foods, is it normal practice to wear a body camera? We have seen evidence and videos that have been taken in relation to you being on the premises and various conversations with Ms Johnson with I Cook Foods. Is it normal practice for you to wear a body camera?

Ms GARLICK: No, not unless there is a safety concern.

Ms CROZIER: So when you went in, was there a safety concern? Did you wear a body camera all the time?

Ms GARLICK: Not on the first day, no.

Ms CROZIER: So you did not have a concern about safety?

Ms GARLICK: No.

Ms CROZIER: Okay. Mr Bennie, can I just move to you for the moment because we only have got 12 minutes here. In relation to some of the issues around Community Chef and the board meeting, we have received evidence from a board meeting, some papers from a Community Chef meeting at 9.30 am on Friday, 22 February, at which you were present, I understand. At that time, on those board papers, the cash position of Community Chef was discussed. And in the board papers it says:

The cash position is tight, and some Councils had agreed to bring forward their advance payments.

It goes on to say:

Discussions centred on the various equity scenarios, whether the State Government would buy in to the business or whether shareholder Councils should be asked to contribute further.

B. Jaboor suggested that investment from state government would be more likely. Can you just give the committee an understanding of the financial situation of Community Chef at that point in time?

Mr BENNIE: Well, the board meeting was a strategic planning session. It does not alter the thrust of the questions that you are asking—but to put it into context. The conversation was in its broader context around the future directions of Community Chef and strategically and corporately what plans needed to be made for the year ahead. Bearing in mind I had only rejoined the board after a five- or six-year absence, and when I had rejoined the board found that the cash position was not as good as it had been.

Ms CROZIER: So it was in financial difficulty?

Mr BENNIE: I would not say it was in financial difficulty, no. These were manageable matters. The challenges that were being faced by Community Chef were those of declining participation in meal numbers, and that was putting stress on Community Chef. I understand that you do have a presentation this afternoon from Community Chef, and to be quite frank I think many of those questions are best directed to them.

Ms CROZIER: I will be doing that, but could I—

Mr BENNIE: I understand, and from my position as a director on the board at that time the cash position was tight, and again consideration was given in each meeting to how the cash position could be improved.

Ms CROZIER: So this meeting was held just 5 hours after the closure of I Cook Foods. Did you declare a conflict of interest at that board meeting?

Mr BENNIE: Absolutely. The meeting may have been held 5 hours after the closure, but it had been convened many weeks prior. It was the annual—

Ms CROZIER: I just cannot see that in the board papers, that you did declare your—

Mr BENNIE: We have standing conflicts of interest, and if the minutes do not show that, then that is something that the minutes secretary would need to address. But my conflict of interest had been declared from the day that I rejoined them.

Ms CROZIER: Can I just go to your evidence that you provided to the committee this morning.

Mr BENNIE: Yes.

Ms CROZIER: You said that you needed to speak with the Chief Health Officer without delay during—I think it was—the morning of—

Mr BENNIE: It was the evening of 21 February.

Ms CROZIER: It was the evening; I thought it was earlier than that. What I was wanting to know was: why did it take so long for you to do that? When you did speak to the Chief Health Officer later that night—at 10.00 pm, I understand—

Mr BENNIE: At 9.00 pm, yes.

Ms CROZIER: At 9.00 pm. So did the Chief Health Officer receive a report during the day of the 21st?

Mr BENNIE: I cannot speak for the Chief Health Officer. What I can say is that there had been a dialogue prior to this catching up, including an email to Leanne Johnson from Dr Finn Romanes of the DHHS indicating that the Acting Chief Health Officer, as he was at the time, required to meet urgently, as is indicated in my testimony, to talk through matters. He indicated when he met with us that DHHS had begun to draft a closure order, and the conversation really then came down to who was in the position to issue that closure order. So by advice to him about my limitations given my conflict of interest I was able to satisfy him that I was not in a position to issue that closure—

Ms CROZIER: If I could go back to Ms Garlick then, in relation to what you are reported to have said, that the department told you to shut the company down—is that what you said?

Ms GARLICK: No.

Ms JOHNSON: It was me.

Ms CROZIER: It was Ms Johnson who said that? So, Ms Johnson, the department told you to shut the company down. At what time did they tell you?

Ms JOHNSON: Thursday.

Ms CROZIER: At what time?

Ms JOHNSON: Middy.

Ms CROZIER: And who told you that again?

Ms JOHNSON: Ms Mira Antoniou, an officer from the food safety unit who was working on the investigation of the listeriosis. She had advised—

Ms CROZIER: So was it a phone conversation?

Ms JOHNSON: It was a phone conversation. I was onsite, and she said that the department was advising I Cook Foods to close and cease operations.

Ms CROZIER: But they did not have a report to operate under the Act. What report had you provided to the department for them to be able to issue that statement to close down?

Ms JOHNSON: The department had been working on the investigation. They were the lead agency on it, so they had been working on this weeks or days before we were actually notified that the case had been involved, and they had been doing—

Ms CROZIER: Which case?

Ms JOHNSON: The listeriosis of the female. So the department took the lead and had started their investigations, and then we were notified. By the time they identified I Cook Foods as being the supplier of foods, that is when we were involved. The reports given to the department included a copy of the food safety programs from I Cook Foods—

Ms CROZIER: So when were those reports provided to the department?

Ms JOHNSON: The food safety program was provided Wednesday or Tuesday, and then it was Thursday afternoon—

Ms CROZIER: Wednesday or Tuesday—which one was it?

Mr BENNIE: Of the week—

Ms JOHNSON: Sorry. Of the week of 18 February. I will have notes, and I can respond to you.

Ms CROZIER: That is all right; it is just important that we get the time lines. Thank you for understanding.

Ms JOHNSON: And a copy of the food safety program was provided, and then by the Thursday afternoon I had been told that the department had reviewed that food safety program and said it was inadequate, and then the conversation was in relation to the listeria management at the premises.

Ms CROZIER: You said that there was a previous history of listeria—that you had done previous reports on I Cook and that there was a previous history. You have said that this morning.

Ms JOHNSON: It was on the files that there was a previous history.

Ms CROZIER: So why was there not any action at that point in time? Why did it take to this point in time? If that, as you state, was very serious, why were there no reports given to the department previously?

Ms JOHNSON: The difference between this one and previous is that other councils had picked up listeria through routine sampling and had been notified and that the actions taken by council—

Ms CROZIER: Previous samplings from where?

Ms JOHNSON: Boroondara's Meals on Wheels service.

Ms CROZIER: Are there multiple suppliers to Boroondara Meals on Wheels?

Ms JOHNSON: I am unfamiliar with their service. It was a sealed product that was delivered to Boroondara, and—

Ms CROZIER: But it could have come from other suppliers.

Ms JOHNSON: No, I do not believe so, and the department would be able to further explain their investigation. The previous file did show that there was *Listeria monocytogenes* and that Kim Rogerson had instructed the business to conduct a clean-up in accordance with the guidelines each time listeria was detected. The difference between those cases and this is the fact that we had a case, a person who had tested positive for listeria, and that we had samples that had tested positive supplied by I Cook Foods.

Ms CROZIER: So there was a draft closure order drawn up, correct?

Ms JOHNSON: By the department.

Ms CROZIER: So the department, before you had submitted any reports, had a draft closure order in place?

Ms JOHNSON: No.

Ms CROZIER: So when did they—

Ms JOHNSON: The draft order started on Thursday. The department notified me Thursday, late afternoon, that they had started drafting a closure order.

Mr BENNIE: It should be 20 February.

Ms JOHNSON: The 21st.

Mr BENNIE: 21 February.

Ms JOHNSON: Thursday, 21 February. The department had started drafting a closure order that afternoon.

Ms CROZIER: Can I just go back to the slug issue. In relation to photographs we have seen, we have seen—and it has been widely reported—a photograph of a slug with what looks to be just the slug and then the slug with a piece of paper. That was presented, I think, during the court proceedings. Can you explain how those photographs are different, any one of you?

Ms GARLICK: Yes, the allegation that the piece of paper, I believe, was in the photo possessed by the Cooks—there is a piece of paper and a lot of other debris in the photo that council provided as well.

Ms CROZIER: Could we see those photos, then, with the debris?

Ms GARLICK: Yes, I believe there is—

Mr BENNIE: Is that part of the package?

Ms GARLICK: I believe it is.

Mr BENNIE: So it is part of the package that we have tabled today, and I am sure they are being sanitised to provide to you.

Ms CROZIER: So we will need to have a look at that I think, Chair, in relation to—

The CHAIR: Yes.

Mr BENNIE: We are leaving those photos with you, yes.

Ms CROZIER: And other evidence, though, suggests that there was no debris in the photographs.

Ms GARLICK: I cannot speak as to that. I took a photo of what I saw, and in the photo I took was debris.

Ms CROZIER: So just on that, you took the photos. Is that the day you were doing the inspection without the body camera?

Ms GARLICK: The 18th, yes.

Ms CROZIER: So you did not have a body camera on at that time?

Ms GARLICK: No.

Ms CROZIER: So you were doing an inspection, taking photographs, but you did not have a body camera on and previously said that if you were doing an inspection, then you would normally wear a body camera.

Ms GARLICK: Sorry, what was the question?

Ms CROZIER: The question is: I asked previously if you wore a body camera, and you said only if you were doing an inspection. But you were doing photographs—and to me that is an inspection—so why weren't you wearing a body camera on that day?

Ms GARLICK: Apologies, I will clarify that point. We wear body cameras if we feel there is safety or we need to gather specific amounts of evidence—

Ms CROZIER: But you were taking photographs and collecting evidence.

Ms GARLICK: Yes.

Ms CROZIER: Why didn't you have a body camera on that day?

Ms GARLICK: Because we do not have to have both.

Ms CROZIER: But you just said that if you were collecting evidence for safety issues, you needed to wear a body camera. Do you understand what I am saying? It is contradictory in terms of what you have actually said: the body camera was not worn, but you were actually collecting evidence by taking photographs.

Ms GARLICK: Yes, and that is the standard thing we do at all our inspections. It is basically documenting condition at the time of inspection.

Ms VAGHELA: Thank you all for your time today. I just want to establish—the 48 charges which were made against I Cook for the closure of the business, of any of those charges, out of 48 charges, how many of them were the old issues or ongoing issues? So if you had done the site inspection—I do not know on what periodic basis you do the inspection of the site; if it was done, say, on a three-monthly, six-monthly basis or if you do the random site visits—out of those 48 charges, how many of those were new?

Ms JOHNSON: There were many food handling charges in accordance with the food standards code where practices were observed, and also maintenance issues that would have included the handbasin not being operational. I cannot give you a number. I am happy to respond and look at the charges.

Ms VAGHELA: What I am trying to establish over here is: was there any ongoing issue where there were some complaints issues, which upon your site visit you might have brought to the attention of I Cook for them to rectify? But what I want to know is: once you had brought them to the attention of the business, did they actually take any action to rectify those issues? So were these ongoing charges or were these just the new ones that you found once you went there on that day?

Ms JOHNSON: There was a large portion of new ones relating to the food handling practices only observed of the week of 18 February. The ongoing issues that were included were the maintenance of the flooring and that the floor was not laid appropriately—that would have allowed pooling of water. And the files show photographs that I Cook had done an extensive repair of that floor back in 2017. And reports are also on our file showing that I Cook Foods had repeatedly been told about the pooling of water and the maintenance of flooring.

Ms VAGHELA: So once you identified the issues and asked the business to rectify those complaints issues—if that was identified in 2017, the flooring issue—how often then did you go back and check whether that had been rectified or not, or did you just move onto the next issues then when you did another site visit?

Ms JOHNSON: I Cook Foods had repaired the floors in 2017, so they had a new surface. When we inspect, we are looking at risk at the time. So depending on when the officer is there—it will depend on what they are observing. I cannot speak for Ms Rogerson, but if the inspections were in the morning, you may not have seen the pooling of the water. And if the premise is satisfactory in regard to the risk at the time, the premise would normally only receive one annual assessment.

Ms VAGHELA: So if we look at their previous annual assessments, there would not be much difference to the visit that you did when 48 charges were—

Ms JOHNSON: There is one report in 2015, where another officer had attended the inspection in December, highlighting significant issues with the food safety program not being compliant and that an auditor had conducted an inspection. And due to council picking up those non-compliances, it was reported to the Department of Health and Human Services and then they spoke to the auditor. After that, the audit reports from Kim Rogerson then showed a change of focus, so I assumed that the rectifications of the food safety program had been remedied.

Ms VAGHELA: So this is not the first time that the business has been referred to DHHS? It has happened before, in 2015?

Ms JOHNSON: In this case it was the failure of the auditor to identify the critical control points within the food safety program. The failures of that program were not picked up by a department-accredited auditor, and as a result it was picked up by council, and that was reported to the department. Then there is ongoing communication. Council has provided an inspection report to I Cook Foods, identifying and directing them to what corrective actions were required of their food safety program.

Ms VAGHELA: And did you follow the same process that you would have followed with other food manufacturing businesses, or was there some deviation in doing the follow-up with I Cook?

Ms JOHNSON: No, there was no deviation. They were treated the same as any other manufacturer or food premise.

Mr BENNIE: Madam Chair, Mr Bosman has confirmed that the details of the 48 charges are included, and he is happy to leave those with the committee.

The CHAIR: Thank you. I think DHHS has also provided us with some of that information.

Ms VAGHELA: Instead of knowing the list, I just wanted to know how many were the new ones. That is what I am trying to establish over here.

My next question is to Mr Bennie. You have provided this document, and under tab 2 you highlighted a few issues that were identified in terms of the food that was provided by I Cook. So were you aware of these before or have you just done the research and now we have found out that these were the issues with the food that was provided by I Cook? So in 2016, 2017, 2018: there is a list of a few things that you have identified, what was wrong with the food that was provided—

Mr BENNIE: Yes. Sorry, and that is tab 1 for the record, and that is provided in response to the comments made by Mr Cook at last Wednesday's proceedings that there had not been a previous history of non-compliance. So we have only given you a sample. In 2016, 2017 and 2018, which Ms Johnson ultimately

also referred to, there is a history of complaint, as much as anything else, but a couple of instances of reported listeria mono.

Ms VAGHELA: Is this just a sample only and there is a bigger pool or these are the things that you—

Mr BENNIE: These are those that we have on record for the three years—16, 17 and 18.

Ms VAGHELA: And is it normal to see such issues with other, similar food manufacturing businesses?

Ms JOHNSON: No. We may get a *Listeria monocytogenes* notification of a business, but normal practice is that controls and processes are put in place to control listeria, and the department's findings with this food safety program were that the business did not have a listeria management plan.

Ms VAGHELA: So if these cases were identified in 2016, 2017 and 2018, would the council have taken appropriate actions against I Cook and made sure that the issues were rectified at that time?

Ms JOHNSON: I have reviewed the files, and on the notes made by Officer Rogerson it shows that she had directed the business to do a clean-up and where particular issues had been highlighted, she had directed the business to address those issues.

Ms VAGHELA: Okay. So once the issues were identified they were always then corrected? Okay.

The other question is for Mr Bosman. You mentioned about the potential cost of going forward with the charges that were against I Cook, and you said that the decision was made and you have identified a few things on why the decision was made to drop the charges. Has this happened before by council where the charges were dropped on the basis of potential cost to the council and eventually to taxpayers, or is this the first time it has happened?

Mr BOSMAN: No, it is not the first time, Madam. There have been cases. I bring to mind a couple within the instance of building regulations. The one that I am thinking of is where somebody had done an enormous amount of illegal building work. Where the work was ultimately brought into compliance it was then deemed not, if I can say, in the public interest to continue to pursue charges, that little would be gained by pursuing charges. We had now brought the matter into compliance where the matters had been rectified. Certainly this was, if I want to call it, an item where the costs were quite substantial. But it is not the only time where council will have taken a decision to not pursue charges because to do so, if you want to call it, the cost benefit would not have been there. It is not the only time it has done that.

Ms VAGHELA: In the past when you have dropped the charges were the costs similar to what the cost would have been had you gone ahead with the charging or with further legal action against I Cook?

Mr BOSMAN: No, I believe not. I mean, the charges in this particular case to go through a succession of courts of appeal would have raised the costs substantially more in this case than even in the cases that I was bringing to mind on the building matter. So here there was a substantial cost—the possibility of substantial costs being incurred to council.

Ms VAGHELA: So what I am understanding is that what you are saying is if the issues are identified, if those issues are rectified by the businesses, then you do the cost-benefit analysis and decide to drop the charges?

Mr BENNIE: Could I add to that? I mean, we do not have a clear policy position. Each and every situation would be considered on its merits. And as Mr Bosman has indicated, all of the things that he has mentioned would be taken into consideration. On this occasion they were, and he made the determination that he did.

Ms VAGHELA: Have you guys dropped charges against any food manufacturing business other than I Cook before?

Mr BOSMAN: I have never withdrawn any prosecutions against any other food manufacturers, but I have never been presented with the same situation.

Ms MAXWELL: Thank you for attending today. I have just a few questions. In the report here it says that the council food health officers inspected the facility, where a number of breaches and non-compliances with the *Food Act* were noted. What specifically were those breaches and non-compliances? Do we actually have a specific list of those?

Ms JOHNSON: We have the first *Food Act* order issued, that was issued to the company on the Tuesday, which would name the directions at the time that would have been in response to those. I do have my statement and so does Ms Garlick in regard to what was in the prosecution brief—and that can be made available—which will specify each of those observations.

Ms MAXWELL: Okay, thank you. Is it normal protocol to construct a list of current concerns and then add older concerns? I am just wondering why older concerns have perhaps carried over in this instance, particularly in a food manufacturing company. Shouldn't they have all been dealt with?

Ms JOHNSON: With these concerns, the particular organism listeria is known to be in water, and pooling water as well, and the risks that we were observing. So we were seeing the reports coming through where trolleys would have been going through pools of water, where the spray of aerosols would have had the potential to spray up and land on food products as well. And with some large manufacturers it is not uncommon that if we see maintenance, they might schedule an annual shutdown of the plant, where they then go through and they complete all their rectifications. Flooring is quite a major piece of work for a business to do. However, many companies normally have a program, a maintenance program, in place where it is scheduled in accordance to the wear and tear on that floor.

Ms MAXWELL: So at any time previously had there been listeria detected on the premises that related back to the water that was on the flooring, given that the flooring issue had been addressed sometime previously?

Ms JOHNSON: I would need to check the records and surface swabs to see if listeria had been picked up in the presence. With the testing, it all comes down to the time of day and when the operations have been done. The records show that Officer Rogerson had instructed the business to do a clean-up after listeria had been conducted. In this event I actually had an understanding through Mr Ben Cook that the company gets a chlorine fogging done of their premises. And after we do a clean-up, we then take samples to verify that clean-up. It is done immediately after the clean-up, before production has occurred, which means that every surface within that premises technically has had chlorine touch it, which deactivates and kills anything that is present.

Mr BENNIE: Ms Maxwell, I think Mr Bosman would like to add something to that.

Mr BOSMAN: Madam Chair, just through you, if I may: Ms Maxwell, I have here the full list of charges, and I think the answer to your question is that the charges that were brought to the Magistrates Court all relate to observations within a four-day period. They are not charges relating to historical events. They are charges relating to a series of present events, and I am happy to leave the full set of charges for the record of the committee.

The CHAIR: Thank you, Mr Bosman.

Ms MAXWELL: Can I just have the chronological order of the events that happened? Are you aware of the date that the deceased lady was first admitted to hospital?

Ms JOHNSON: Council was notified on Monday the 18th, late in that day.

Ms MAXWELL: And what date did she pass away?

Ms JOHNSON: I do not have that information.

Ms MAXWELL: So the first testing samples were done on 1 February?

Ms JOHNSON: That is correct.

Ms MAXWELL: And the second sample was on 21 February?

Ms JOHNSON: The sampling on—

Mr BENNIE: Thursday the 21st.

Ms JOHNSON: Thursday?

Mr BENNIE: The 21st was the Thursday.

Ms JOHNSON: I think Wednesday the 20th we took routine samples. The next day, the Thursday—that is right, because Wednesday I attended. So Thursday, yes. Thursday, we took new samples.

Mr BENNIE: Just confirm the date.

Ms JOHNSON: Thursday, 21 February—sorry.

Ms MAXWELL: Okay. I just wanted to confirm that.

Ms LOVELL: Mr Bennie, you said that you had a standing conflict of interest lodged with Community Chef. Normally the standing conflict of interest declarations form part of the agenda and board papers for any board meeting. Are you able to supply us that attachment that would have been part of the board papers for, what was it, 22 February 2019, please?

Mr BENNIE: I can. I do not have it before me now, but I certainly can—

Ms LOVELL: Could you just give it to—

Mr BENNIE: provide that. Let us not forget that in the context of my role on the board of Community Chef I was the Chief Executive Officer of Greater Dandenong City Council, so my conflict in that regard speaks for itself. I do not have a conflict per se when I meet as a board member of Community Chef because council is in fact a part owner of that company and is a customer of that company. It is only in the context of the issue around I Cook Foods that that matter became relevant. The importance of the declaration of conflict is the reverse; it is in the other direction. It is in relation to this matter before this parliamentary inquiry, being the issues with I Cook Foods and the fact that I am conflicted in any consideration—

Ms LOVELL: Ms Crozier specifically asked earlier about your conflict of interest in relation to I Cook Foods at that meeting. You told us that that would form part of your standing declaration—

Mr BENNIE: Yes.

Ms LOVELL: Now you are saying you did not need to declare a declaration for I Cook Foods because, you know, you are the CEO—your standing declaration would be because you are CEO of—

Mr BENNIE: No, I do not think there is an inconsistency in what I have said. I have said that I have a standing declaration, which is that of being the Chief Executive Officer of Greater Dandenong City Council, and the only time that I might need to specifically mention that is if in fact there was any matter associated with I Cook Foods that was on the Community Chef agenda, and there was not.

Ms LOVELL: So did you specifically declare that conflict at that meeting?

Mr BENNIE: Not on that day, because there was no reason to do so.

Ms LOVELL: Okay. So in the minutes of that meeting it particularly says that:

J Bennie briefed the meeting on an emerging issue – Environmental Health Officers served a closure notice on iCook due to the presence of Listeria.

You have given a briefing to that meeting, so have you declared your conflict of interest?

Mr BENNIE: I stand by my advice—that is, I had a standing conflict of interest. The briefing was made later in the meeting after the announcement had been made in the public domain on ABC radio, I believe, at about midmorning—10.30 or 11.00 am or something along those lines—that a closure order had been served on the firm. I did not make any mention of that to the board before that time.

Ms LOVELL: How long did the board meeting go that day?

Mr BENNIE: It was a strategic workshop, as I said earlier, and the meeting was about a 3-hour meeting, from memory.

Ms LOVELL: The meeting started at 9.30, so this would have been about the time that it was on the radio. It has not actually got the closure time of the meeting, but you are saying that it was about midday that it was on the radio so—

Mr BENNIE: No, I said it was about 10.30 or 11.00. Look, I have a recollection that it was raised by the officers of Community Chef that a news announcement had been made in relation to I Cook Foods.

Ms LOVELL: Okay. We can check the timing of that anyway.

In this you also say that there will be a coronial inquest. How did you know that?

Mr BENNIE: I did not know that. I do not recall the specifics in the minutes. If it says that, it would be to indicate that that is a possibility, of something like this occurring.

Ms LOVELL: In your briefing it says:

J Bennie briefed the meeting on an emerging issue – Environmental Health Officers served a closure notice on iCook due to the presence of Listeria. The DHHS order for closure was issued under the Health and Wellbeing Act and there will be a Coronial inquest.

That is your briefing to the meeting.

Mr BENNIE: Well, my advice to the meeting would have been along the lines recorded, but I had no particular knowledge that that would be the case. When a person passes away under these circumstances, I would have expected and assumed that a coronial inquiry would follow.

Ms LOVELL: Well, then the minutes would have said ‘and he expects that’, not that ‘there will be’.

Mr BENNIE: I did not take the minutes, Ms Lovell.

Ms LOVELL: Anyway, next question. Why did you think it was appropriate to brief Community Chef on a competitor’s situation?

Mr BENNIE: I thought it was relevant given the context of all the things that we were talking about of what was happening in the sector.

Ms LOVELL: Okay. Because it goes on to say that Community Chef will now contact customers of I Cook in order to offer their assistance for the supply of food.

Did you have access to the customer list for I Cook, and do you think it was actually a conflict of interest in using your information gained as the CEO of the Greater Dandenong council to brief the board of a competitor?

Mr BENNIE: No. It was not me who said that, and I did not have the list and I did not share that list.

Ms LOVELL: But do you think it was a conflict of interest for you as the CEO of Greater Dandenong council to brief a competitor on information that you had gained in your substantive position as the CEO of Greater Dandenong council?

Mr BENNIE: I was briefing them after the matter had come into the public domain. The matter was there, the issue had been raised that a news announcement had been made about the closure of I Cook Foods. I thought it was then relevant and appropriate that I indicate what I knew and understood of the situation.

Ms LOVELL: Mr Bennie, how much of ratepayers funds have been expended so far and how much is still expected to be expended in the court action against I Cook Foods?

Mr BENNIE: I do not have that information to hand. We are not currently pursuing any further court action.

Mr BOSMAN: Excuse me, Madam Chair, I have—

Ms LOVELL: Can you take that on notice and provide that information to us?

Mr BENNIE: Yes.

Ms LOVELL: That would be good, thank you.

Mr BOSMAN: Madam Chair, through yourself again. There was a question asked as to when council was notified that the elderly lady had passed away. I have a note here that council was notified at 4.18 pm on 18 February.

The CHAIR: Mr Bosman, if you could just speak a bit closer to the—

Ms LOVELL: I did not ask that question.

The CHAIR: No. This is actually something that Ms Maxwell asked.

Mr BOSMAN: Madam Chair, it was asked by one of the members as to when council had been notified of when the elderly patient had passed away, and my note is that the council had been notified at 4.18 pm on 18 February.

The CHAIR: Okay. She died on the 4th. One minute left.

Ms LOVELL: Okay. Mr Bennie, have you ever or has council ever conducted an independent audit of your health team or, and in addition, an independent audit into the closure of the I Cook Foods company?

Mr BENNIE: Arising from this matter, it was very important that I along with other executive members had a clear understanding of the position that we were in. If there had been fault, if there had been mistakes made, if there had been certain things done, then we wanted to know about it, so we required an audit to be undertaken in relation to that, but found, arising from that audit, that fundamentally there were no issues for us to be concerned about.

Ms LOVELL: So you are saying there were no issues for you to be concerned about?

Mr BENNIE: In relation to the matter of the prosecution against I Cook Foods.

Ms LOVELL: What did it find about your health team?

The CHAIR: Thank you.

Ms LOVELL: Can I just ask: can you table a copy of that report for our committee, please?

Mr BENNIE: I will take that on advisement.

Ms SHING: I am wanting to talk about the tipping point that has been gotten to in this particular matter, where to quote you, Mr Bennie, there has been a history of complaint in relation to I Cook Foods and that there were 48 charges all relating to a four-day period but that in fact there seemed to be some very in-built problems associated with the very layout of the operation that had presumably attracted council's attention and are referred to, Mr Bennie, in your statement around the location of ovens and around the dishwashing sinks being in close proximity to food equipment. This is not just about water pooling irrespective of the time of day in which an inspection takes place. This is about the set-up of the operation. I am wondering how it was possible, given listeria of this particular strain can thrive in water and can be spread with water, that it was not enough previously to close this business down—given the history that you have indicated took place around discussions with I Cook, despite that that is at odds with Ms Rogerson's evidence—and how it was that all of a sudden there were all of these charges laid, which were abandoned on a commercial basis but were enough in and of themselves to warrant the request for closure or the discussions with DHHS that lead to the order being made. Mr Bennie, perhaps if you can start, and then we can hear from Ms Johnson and Ms Garlick as well on this point.

Mr BENNIE: Just as a point of clarification, Ms Shing, you might have confused my testimony with that of Mr Bosman. I think Mr Bosman referred to that detail.

Ms SHING: I beg your pardon. I am sorry, Mr Bosman.

Mr BENNIE: I will refer to Mr Bosman and then Ms Johnson or Ms Garlick.

Ms SHING: Thank you.

Mr BOSMAN: Ms Shing, the points that I refer to in my address to the committee are evidence or examples of the 48 charges that were brought at the Magistrates Court against I Cook Foods. It is an illustration of some of the matters and the nature, the spread of some of those matters upon which the brief of prosecution was submitted to the Magistrates Court.

Ms SHING: Yes. I am looking at the statement, though, that refers to the very location of the ovens, being outside the kitchen, being used to cook meat, the dishwashing sinks being in close proximity to food equipment along with issues of concern around water pooling. I mean, these are not new issues if they go to the very layout. Despite any maintenance that may have been undertaken to flooring in 2016 or 17, it seems that there is a history of issues which are static, which have not warranted escalation to the point of closure, including in relation to cleaning. Then, all of a sudden, this changes despite the fact that there has been this history of complaint. I am confused as to how it was that we got to this point, particularly on the question of cleaning, where Mr Cook's own evidence was that a deep clean was conducted every day and also that evidence from Mr Cook and Ms Rogerson indicates that listeria is ubiquitous around us and that levels under 100 cfu are in fact a manageable risk.

Mr BENNIE: I think Ms Johnson said that.

Mr BOSMAN: Madam Chair, that was within—

The CHAIR: Yes. Ms Johnson, this does relate back to your report.

Ms JOHNSON: Yes. The ovens that were located outside were identified I believe by Officer Garlick in an inspection, and then when I attended that afternoon, on the Wednesday, I was shown them. I asked Mr Michael Cook how long they had been there for, and I believe his response was one to two years.

On the point regarding the processes and systems within the premises, an officer will conduct a food safety assessment, and our assessment is what we observe at the time. We will review either the highest risk activity at the time or we will say, 'Take us from the beginning to the end'. The difference with this premises is that it had an independent food safety program and so the premise had operating procedures. When they are required to have an independent program they are also required to have a third-party audit. That is done by a third-party auditor by the Department of Health and Human Services. The difference between our assessment and an audit is that an auditor will go through and they will look at the food safety program in detail and they will match those processes to the activities that are being conducted within that premises.

Ms SHING: Right. So if I go to the activities that are being undertaken in that premises and if I go to the fact that there was a fatality that is linked to the presence of listeriosis in corned beef, ham, egg and lettuce, and that by the reckoning of the independent assessment it sat at below 10 cfu, that does not seem to me, based on the evidence that we have heard today, to be enough in and of itself to warrant a closure, unless somebody can shed some light on this for me, because it seems that council had raised numerous concerns about the lack of cleanliness on the premises and the positioning of the layout of things previously and had not actually called for closure, had put in place a number of remedial steps, but all of a sudden it has now escalated to the point where—and I think, Mr Bosman, this was your evidence, that you have not actually ever gone to the point of closing a business down like this before. Is that correct?

Mr BOSMAN: Through you, Madam Chair, I think it is important to remember that the premises were not closed down by council. The premises were closed down by the Department of Health and Human Services on the basis of the risk associated with the link between the listeria and the elderly patient. The actions that were taken by council officers were actions to bring to court charges for breaches of the *Food Act*, as well as other

food orders which are not closure orders to food orders in terms of rectifying matters that were found to be breaches of the *Food Act*. But the council did not—

Ms SHING: But we have a history of complaint that involves the presence of listeria and that that in and of itself was the major contributing factor, or a contributing factor, in the death of the person who had consumed product from I Cook Foods. So it seems to me that but for the death of a person following consumption of food from I Cook Foods this may well have continued to be a process of ongoing complaint and various approaches to I Cook to try to clean up their act. I mean, where does it end in terms of escalation to the point where more decisive action can be taken?

Mr BOSMAN: Well, as I said, through yourself, Madam Chair, the Chief Health Officer decided on that closure on the basis of the evidence that he had in respect of this particular case. I suppose that in the other case, in the ongoing breaches of the *Food Act*, where they reach a risk level where it is warranted, in consultation with DHHS, my council officers would do the assessment and if it was warranted, a proposition to close or a proposal to issue a closure would then be reached, but it would be on the basis of a risk assessment. In this particular case that risk assessment by the health department necessitated that closure.

Ms SHING: It seems to me, though, that with a history of complaint the risk assessment appeared to have been present in a relatively consistent way for a number of years and yet there had been no request or no decision taken—putting the conflict of interest issue to one side—to close the operation, despite what appears to have been a pattern, at least on your evidence, not on the evidence of Mr Cook, of non-compliance with a number of directives to improve cleaning and practices on the premises.

Ms JOHNSON: I think with this, Madam, I only learned recently of Officer Garlick's response when she attended. The inspections I conducted at I Cook Foods myself were unannounced—they were not expecting me to arrive. And yesterday I learned that when Officer Garlick, who can speak to this, arrived on her first day she was given the impression as if inspections had been booked in and appointments made previously. If an appointment is made, it is at a time suitable to the manufacturer. It might be a time when they are at their end-of-day production or they are just starting up and then it is not in their busy peak. The fact that our inspections were occurring when they were in mid-operation was giving us an opportunity to see what the flow of the processes was and what the knowledge was. The other point that I did note in that week of the 18th, Mr Ben Cook had injured himself and he was pretty much stuck behind a desk, and in conversations he had not gone onto the floor to observe and have a look at operations. I do not know how long Mr Cook was disabled for. There were conversations earlier that Ms Garlick had told me that she had recommended to Mr Ben Cook to use the cameras within the food production area to help observe and supervise staff in the food handling practices when he had limited mobility.

Ms SHING: All right, thank you. What I would like to do is just ask Ms Garlick a couple of questions, if you would not mind coming to the table. Thank you. Mr Bosman, you might have to give up your chair.

The CHAIR: Your time is brief, Ms Shing.

Ms SHING: Excellent. Yes, I will be very, very quick. Thank you for that, Chair. Ms Garlick, what was the difference between the day when you attended and did not wear a body camera and the following day when you did? You have talked about safety. Why did you change your position and decide to wear a camera on the second day?

Ms GARLICK: Yes, I can answer that. The main reason was upon returning to the office after the inspection on the 18th I did find out that the case that allegedly had listeriosis had passed away, and then with regard to requests from the department for further information I felt it prudent to wear my body camera during subsequent inspections.

Ms SHING: But you did not have any fear for your safety as a result of the fatality?

Ms GARLICK: No.

Dr BACH: Again, thank you all for being with us and for helping us this morning. Can I ask, Mr Bennie, you a question about the audit that you have discussed with us that you had carried out at the council? You made some comments before about the fact that you wanted to get to the bottom of what had occurred yourself.

Can I ask you broadly about that audit and in particular whether there were any issues of concern regarding the health team?

Mr BENNIE: Not that I can recall. My questions were—again, given the complexity of my role I did not want it to be seen that I was getting any more involved than a CEO might to satisfy themselves around the veracity of the things that we were dealing with. So I have not actually studied or reviewed the audit findings. The director of corporate services did all of that on my behalf. He advised me about the general outcomes. So that is a long answer to effectively say that I am really not aware of the detail.

Dr BACH: Okay, that is fine. Thank you. But my recollection is that to Ms Lovell's question you had said you would look into whether or not that was possible to provide that to us.

Ms LOVELL: He did. He gave a commitment to provide it.

Mr BENNIE: I gave a commitment to take that on advisement, yes.

Dr BACH: That would be very helpful. Thank you so much. Can I ask a question to you, Mr Bosman? I am sorry to have you dancing backwards and forwards. Another member of the committee, Mr Bosman, had previously asked I think you, Mr Bennie, regarding whether or not you had any information to hand about the sum of money that has currently been expended by the council regarding I Cook Foods and any action against I Cook Foods. Do you have personally any more information about that?

Mr BOSMAN: I can check the records and provide the committee with what it had cost us to the point at which I withdrew or instructed the barrister to not proceed. I do not have that figure offhand but I can in fact provide the committee with it. But as I mentioned, subsequent to having instructed the barrister to not proceed obviously there have been no further legal bills in respect of bringing a case against the company.

Dr BACH: Fine. Thank you very much. Mr Bennie, can I ask you: my understanding is that Dandenong council has sold its share of Community Chef to Western Health. If I am correct in that, can you tell us how much that was for?

Mr BENNIE: It was Greater Dandenong City Council, and we, along with all shareholders, had not sold. The company has been bought, as I understand it, by Western Health. Recall that, as I have stated previously, I have stood aside from the board since this incident arose and so I am not privy to all of the detail, but it is, as I understand it now, in the public domain. Western Health has acquired Community Chef, and arising out of that Greater Dandenong, along with all other shareholders—and I think there are another 16 of those—have now had the company that they part owned bought.

Dr BACH: Ms Johnson, can I ask you a question? In response to a question just before from Ms Shing you mentioned that you had only learnt about several matters pertaining to some alleged problems with I Cook Foods recently. Can I ask you: what is it that you only learnt recently, and what does recently mean? Can you be more specific?

Ms JOHNSON: As of yesterday I learnt that when Officer Garlick had first arrived at the premises—you can clarify with Officer Garlick—the business made a comment in relation to, 'Oh, you've come with no appointment', just an offhand comment in that space. I think that was the only—was there another matter I raised?

Dr BACH: So other than that, you were aware of the various issues that it is your evidence are significant issues of concern—as Ms Shing said, that is quite different from what we heard last week, but that is fine—regarding I Cook Foods?

Ms JOHNSON: Yes, I learnt them in the week of 18 February, so as I was getting reports back from Officer Garlick in regard to the non-compliances identified, I then started to review their file to have a look at what their past performance history was.

Dr BACH: I might ask Officer Garlick a question or two, if that is all right. Ms Garlick, you made some comments before about exactly when it was that you found out about the death of this poor woman from listeriosis. It had been my understanding—and I may have this wrong; you may be able to clarify this for me—

that you were there on the 18th, carrying out the work that you were carrying out specifically because of the death of this woman, but that is not right. Would you mind clarifying that for me?

Ms GARLICK: Yes, certainly. I found out through Officer Johnson that an illness had been reported by the department of health to us and that my investigation was to go there and investigate that illness. When I returned to the office after that investigation, that inspection at the time of the 18th, it was then that I found out that the case had actually passed away.

Dr BACH: I understand. I might ask you another question, Ms Garlick. In notes that we have received as a committee, one of the things that you mentioned was regarding coats that you were to wear on the premises.

Ms GARLICK: Yes.

Dr BACH: And I think 'debris' is the word that is used in the information that we have as a committee—that there was debris, in your view, on those coats. My understanding is—I am quoting you when I say—there was debris on some coats. It was from this area that coats were taken for Mr M Cook and I to wear through the premises—

this area where there was debris. Is that correct?

Ms GARLICK: Yes, so in that particular gowning area Mr Michael Cook had provided me with a coat, so he collected that and provided it to me to wear, but as we were gowning up in that area I observed that some of the coats that were hanging in that area for staff and obviously visitors did have some debris present on them. I could not make out what that debris was. It may have been food stains.

Dr BACH: Nonetheless, we have received video evidence that shows you and Mr Cook walking into the gowning area with folded gowns that appear to be clean, folded gowns.

Ms GARLICK: Yes. Like I said, Mr Cook provided me with a coat to wear, and that is where we gowning up in that room.

Dr BACH: Can I come back to my previous question to you, Ms Garlick? Thank you very much for clarifying that for me. You did not understand that you were there based on the fact that a person had died but that they were sick.

Ms GARLICK: Yes.

Dr BACH: Based on the fact that that was your understanding, was it appropriate and normal, again, for you not to be wearing a body camera?

Ms GARLICK: Yes. It was a routine inspection as far as I was aware.

Dr BACH: Can I go to a matter that has been covered by a couple of other members? I might ask you, Ms Johnson, this question, or perhaps you, Ms Garlick. Based on the evidence that you have provided to us on the very serious issues that you say you observed on the 18th, I think it was, at that inspection—and I note the information that you have already provided to us about some of the concerns that you say you had that were ongoing. Of course we have heard evidence from Ms Rogerson that, to come back to a point you made, Dr Kieu, is starkly different from yours—that based on her experience and her involvement with I Cook Foods, really they were quite exemplary in terms of their record. Could I just quickly step through some of these points? I am looking at the information that you have provided to us, Ms Garlick, just to clarify in my mind if these were issues of ongoing concern for the council. So the first point was:

Aerosols created from using high pressure hoses to wash down food preparation areas while food handling activities were still occurring

Was that something new or was that ongoing?

Ms JOHNSON: This was both our first time. We had not stepped foot in the food premise until 18 February, and it was Officer Garlick who observed that practice.

Ms GARLICK: Yes, but I cannot speak as to the history of that practice occurring.

Dr BACH: Right, okay.

Dirty food handling equipment ...

Had that ever been observed before?

Ms JOHNSON: I would have to check the files, I am sorry.

Dr BACH: Okay. I suppose my broader point—perhaps this is to you, Ms Johnson—is that notwithstanding the fact that you are saying that there were some ongoing issues with I Cook Foods, the concerns coming out of your report, based on your effort, seem very significant. And yet, to touch again on some questioning from Ms Shing, some of which had been raised before but many had not, what is your understanding about how it is that things could change so significantly at I Cook Foods?

Ms JOHNSON: There were conversations with Officer Rogerson on her return to council, and when she was discussing the premise with me she was saying that she had asked for areas to be segregated and she told me that she had raised concerns with the flooring in the past. And in the previous June, Officer Rogerson had responded to a routine sample that had tested positive for listeria. She said that the manufacturer had pretty much outgrown the premise and that she was recommending to them back then to look at how their premise was structurally set up or to move. There were discussions in regard to the size of the premise the previous year. I did not record this discussion, but I do—

Dr BACH: Okay. I mean, nonetheless some of these matters are entirely new, as I understand it, based on the evidence you have provided today—for example, staff not demonstrating the skills and knowledge to handle food safely. That seems to be very serious, based on my understanding of some previous concerns that in your evidence you said were ‘abnormal’. You were asked previously about whether this was run-of-the-mill stuff to have some concerns raised about a food manufacturer, a food organisation like I Cook Foods, and you had said, ‘No, that was not’, but this is entirely new that had not been raised before.

Ms JOHNSON: Yes. I think the week we were there there was a combination of factors. Mr Ben Cook was injured and not actively on the floor, and our inspections were unannounced when we were attending. We were attending at various times of the day. I think we ended up doing, from 1 February to 22 February, seven inspections by officers, so there was a lot of contact with the premises, and as our inspections progressed and each day we were observing a different practice within the premise, we were getting a bigger picture of what was occurring.

Dr BACH: Okay. But still—just very, very quickly, to finish, Chair—in your evidence, Ms Johnson, you have noted that in particular regarding the pooling of water in your view that is a significant risk for listeria.

Ms JOHNSON: Yes.

Dr BACH: So, can I press again: based on the fact that that had been known for a long time, why is it that no action regarding that matter had been taken against I Cook Foods previously?

Ms JOHNSON: Officer Kim Rogerson was responsible for the premise in managing it as a health officer for a number of years, and at the time of this incident I had no doubt in her ability to address food safety matters. I was employed by the Dandenong council from May 2018, so any previous history I only learnt from files after 18 February.

Mr ERDOGAN: Thank you all for coming here today. It is very important. I do have a question for Mr Bennie, because obviously Ms Rogerson made some allegations about the way she was treated at your organisation. Was she under any sort of performance management before February 2019?

Mr BENNIE: No, she was not.

Mr ERDOGAN: In terms of environmental health officers looking after certain areas, is it common practice for the one environmental health officer to go to the one business and monitor to the one business over a long extended period of time?

Ms JOHNSON: It is routine for councils to rotate their officers every, maybe, three to four years. The first year the officer is engaging a business and getting to know and build a relationship, and the second year is

when you have got that relationship as well. So usually after three to four years it is routine to swap areas. That I did in January 2019.

Mr ERDOGAN: She did state there was a new manager that came.

Ms JOHNSON: That was me.

Mr ERDOGAN: That was you. So it is when you came in that you had maybe changed some of the areas for the environmental health officer.

Ms JOHNSON: Yes, that was me.

Mr BENNIE: Mr Erdogan, if I can add, I know this was a matter that was canvassed last week, and it is a classic risk management response—that it ceases, I guess, any pattern of familiarity if there are changes. A fresh set of eyes can be brought to the table. So there are a whole lot of common risk management reasons for making the changes that Ms Johnson put in place.

Mr ERDOGAN: What was the standard procedure for inspecting premises? Environmental health officers, would they make appointments to inspect premises?

Ms JOHNSON: No. Many of ours are unannounced. Some large manufacturers you may need to because you may need to go through onsite induction for occupational health and safety and also security. Sometimes they have got gates that you need to pass through. But our practice is to attend unannounced to any inspection.

Mr ERDOGAN: In light of some of the, I guess, issues with the structural issues that you have explained, about possibly there should have been segregation of certain areas and that they may have outgrown the premises et cetera, would that be documented? So the officer that has gone out, would they provide a report? Would they just inform you informally? What is the process?

Ms JOHNSON: I would need to have a look at the file notes to see if it was documented. I do note that Officer Rogerson on her inspection report would routinely write down what had been discussed during those inspections. But I do not have the details at hand.

Mr ERDOGAN: That is all from me for the moment. I think most of what I wanted to ask has already been asked, so I will leave it there.

Mr LIMBRICK: Thank you all for appearing today. I would like to start by asking Ms Johnson about what happened on 21 February when you apparently spoke to the DHHS. What is the sequence of events that day, because my understanding of it is that you had a conversation with someone from DHHS and then that same day did an inspection. Is that correct?

Ms JOHNSON: Yes. The Thursday morning I spoke to an officer at the food safety unit.

Mr LIMBRICK: Was that Mira.

Ms JOHNSON: No. That was a different officer.

Mr LIMBRICK: Right. Okay.

Ms JOHNSON: It was early in the morning before I attended the first inspection on Thursday. It was to discuss the fact that these bread crates, the large plastic crates, were being washed outside in a bin area. I spoke to them about the process. The food safety unit—when there is an incident like this it is common for them to have many officers on the process, and in those conversations we discussed the agreed process: that the business was to rectify processes and look at the food safety training of staff.

Mr LIMBRICK: It is also my understanding that—

Ms JOHNSON: Mira?

Mr LIMBRICK: Yes. Was there another conversation with Mira?

Ms JOHNSON: Yes. So I attended the inspection in the morning at I Cook Foods with Officer Garlick. I took a phone call—I was outside the office of Mr Ben Cook. Ms Antoniou had called me. You will need to clarify with the Department of Health and Human Services; it was I think Thursday I learned that they had an incident management team working on this incident and that they were meeting. Ms Antoniou told me that the Chief Health Officer was advising I Cook Foods to close and cease operations. While I was on the phone, I quickly popped my head in and spoke to Mr Cook to give him a heads-up, and then when I completed that conversation I notified my acting manager. Then I went straight in to Mr Ben Cook and explained what conversation I had just had with the Department of Health and Human Services.

Mr LIMBRICK: In evidence last week from Mr Cook he stated that the night before, on the 20th—so on the evening of the 20th—they had had a forensic clean of the premises that evening.

Ms JOHNSON: The Wednesday night?

Mr LIMBRICK: Yes.

Ms JOHNSON: The Thursday night they had chlorine fogging conducted, and I took surface swabs the Friday morning. So Thursday night was a chlorine fog, and the Wednesday night—Mr Cook told me Thursday morning—the business had been systematically cleaned. At the time when I was there it was in production, and that was when he outlined what actions he had taken in response to the previous day's inspection.

Mr LIMBRICK: Because he claimed in evidence that an opinion on the cleaning on the evening of the 20th, when he said that he had had conducted a forensic clean that cost \$12 000, was expressed to the department before an inspection had taken place. Does that make sense to you? So he was saying that on the Wednesday evening, I think it was, there was a forensic clean, and then an opinion was expressed to Mira on that clean before an inspection had taken place. Was that correct?

Ms JOHNSON: To me a forensic clean means that there was a full commercial clean where you would engage a consultant, and the report I was provided was that the chlorine fog occurred on the Thursday night. I was not of the understanding that there was a forensic clean on the Wednesday night.

Mr LIMBRICK: Okay. Mr Bennie, I would like to ask about the conflict of interest that we have discussed a few times. The nature of that conflict of interest—correct me if I am wrong: is that a competition issue, because Community Chef and I Cook Foods are effectively in competition? Or what is the nature of that conflict of interest?

Mr BENNIE: Well, the nature of the conflict is that council on the one hand is a regulator and council on the other hand is a service planner and service provider, and in relation to this broader matter council had a responsibility in both areas. As the CEO, if I am involved on the board of Community Chef, I need to be extremely mindful of the matters in relation to regulation. So my conflict of interest, which I continually declared in council, was that I was on their behalf on council and, as a part owner of Community Chef, on their behalf on the board of Community Chef and that I should not then have any role to play in relation to the regulatory aspect of all of this—and I did not.

Mr LIMBRICK: At an organisational level, though, the council is a shareholder, or was a shareholder, in Community Chef. Would you consider Community Chef and I Cook Foods to be competitors with each other?

Mr BENNIE: They are both in the business of dealing with similar clients, yes.

Mr LIMBRICK: And when you did not sign the closure order due to believing that was a conflict of interest, that was due to the fact that you were on the board of Community Chef.

Mr BENNIE: Yes.

Mr LIMBRICK: And therefore there was a conflict. But isn't there a wider conflict—not a personal conflict but a conflict with the council itself—in that they are the shareholder of a company that is in competition with a company that they are regulating? Isn't that a wider conflict?

Mr BENNIE: No, and I addressed that in my presentation: about the broader conflict and the perception that was expressed last week by Ms Rogerson that the nature of that meant that all of the officers would be

conflicted. We have 12 500 businesses in our city, and many municipalities would have a similar number. It just so happens to be that in relation to this particular matter the company that we are dealing with is a Greater Dandenong business. So it is not possible for us to pursue the responsibilities that we have as a service planner, service provider—and, as I indicated, historically being involved in food-related premises that we either owned or that we were a shareholder in—and not give consideration to where there might be those conflicts. Conflicts exist. IBAC has determined that conflicts are invariably unavoidable. It is how they are managed that is the important thing, and I maintain that I managed that conflict as well as possible.

Mr LIMBRICK: I would also like to ask a question to Mr Bosman, if that is possible. I would just like to clarify—I know that you have touched on this a few times with these charges that were brought against I Cook Foods and then dropped—when was the decision made to drop them? What date was that?

Mr BOSMAN: Third of October.

Mr LIMBRICK: Okay. So that was way after. By that point where the decision was made to drop it, it would have been fairly clear that I Cook Foods was not able to continue operations. Is that—

Mr BOSMAN: I believe that I Cook could have re-resumed operations. Why they chose not to—it is not up to me to say so. The charges were withdrawn on 3 October simply on the basis, as I said, of the commercial decision that I took. As to why I Cook had chosen to not resume operations, it is not a matter for me speculate.

Mr LIMBRICK: And as this type of charge had not been brought before to other businesses that are regulated by the council, I would like to follow up something that Ms Shing and Dr Bach also said: it seems unusual that, for this business that had been regulated for a long period of time, all of a sudden this great big list of charges comes out. Was the trigger for this the fact that someone had passed away and it was considered that it may have been related to that? What was the trigger for driving this very serious course of action towards the business?

Mr BOSMAN: The event that triggered the inspections, as has been evidenced by Ms Johnson and Ms Garlick, is the listeria connection to the elderly patient. That is what triggered the inspection of the premises, and it is through these subsequent inspections over a period of days that a number of breaches of the *Food Act* were observed. It was as a result of those breaches that the matter was then taken to the Magistrates' Court for prosecution of the breaches of the *Food Act*.

Mr LIMBRICK: And was there certainty about whether the patient had consumed foods produced at I Cook Foods?

Mr BOSMAN: That would be for the department of health to answer. The matter that I prosecuted at the Magistrates Court, or took to the Magistrates Court, was purely for the breaches of the *Food Act* and not for the matter relating to the death of the elderly lady.

Mr LIMBRICK: I think I am out of time.

The CHAIR: Spot on, Mr Limbrick. Thank you. I think I just have a few more questions. Ms Johnson, I was interested that you noted in your report the chain of custody on the food swabs taken on 1 February—you were not satisfied with them. We have seen the reports come that have been returned about those swabs. There is no mention that there was a concern at the chain of custody.

Ms JOHNSON: It does not affect the fact that the products were obtained on 1 February. That still stands—the certificate of analysis. However, it was the administration that I identified later on, after the event, and—

The CHAIR: When did you realise this?

Ms JOHNSON: When I was looking through the chain of custody forms. Ms Rogerson was on leave, and the department contacted me on Monday wanting information relating to the food samples obtained. I was able to obtain a copy of the chain of custody forms. I was also instructed to obtain a copy of the photographs Ms Rogerson took on the day, and I was to put them up to the department as part of the investigation. It was when I was going through the photographs and the chain of custody that I noted that Officer Rogerson had labelled a ham with a different brand on it to what was sampled, and the actual chain of custody form—council did not receive a copy of the sample results from the lab that week because Ms Rogerson had filled in the form

with the details in the wrong location. It was not until Friday when I was able to get a full copy of those analysts' certificates and then provide them to Mr Ben Cook on the Friday.

The CHAIR: Right. So eventually the reports came back saying that—

Ms JOHNSON: They came back saying positive. The samples that had been taken had been obtained within the premises and they were sealed at the premises.

The CHAIR: Yes. The final reports actually came back saying that they were below an unacceptable level—that they were at an acceptable level. Is that correct?

Ms JOHNSON: They were returned back saying that *Listeria monocytogenes* had been detected.

The CHAIR: Yes.

Ms JOHNSON: So with the Melbourne diagnostic unit, we are just looking for a positive or a negative when we are following up on a premises that has had a case. Where it was likely food was consumed from that premises, we are looking for a positive or a negative in regards to that bacteria being present on site.

The CHAIR: Right.

Ms JOHNSON: With those reports, I would have to look. I remember them saying 'detected'. It depends which laboratory. We have a different laboratory, so when we do our routine testing we have engaged that laboratory to quantify how much of the bacteria is in that product. But with the MDU it is actually an agreement between the Department of Health and Human Services, and in an investigation when there has been a food poisoning incident all of our results go through MDU so then they can transfer that information directly through to the department because they have that working relationship.

The CHAIR: Correct. Then we have received the report from the Doherty Institute that, I guess, does that final confirmation around those levels.

Ms JOHNSON: That would have been initiated through the department side.

The CHAIR: Correct. Yes, that might be the case. Certainly what it found was that the levels were not of a level that was over the unacceptable level. I guess I am really curious that if you were concerned about that chain of custody, this is the first time I have heard that there was a concern about the chain of custody with those samples. Why was that not raised?

Ms JOHNSON: The department knew of that.

The CHAIR: Right. This is really the first time we have heard that there was—

Ms JOHNSON: The Department of Health and Human Services knew of that in the first place.

The CHAIR: So what do you do when there is a concern about that chain of custody? Do you get new samples?

Ms JOHNSON: The chain of custody—the samples were taken, but the errors in the chain of custody form were administrative. It was not how it was handled or how it was taken to the lab. It was purely administrative in the way one sample of ham had been named and when Officer Rogerson had completed her submission form, she should have included her details in the top part, which would have allowed us to receive the results that week. Instead I think she populated it with the Department of Health and Human Services details and then she put herself as a cc. The way the MDU work is they have got databases, so depending on how it goes in it would—

The CHAIR: So that is why you say it took some time for you to receive those reports—

Ms JOHNSON: To receive them. It was the actual—

The CHAIR: clearing Cook of having unacceptable levels of listeria.

Mr BOSMAN: We are talking about more than one sampling here.

The CHAIR: Yes, I have got the reports in front of me.

Mr BOSMAN: In other samples that were taken there is no concern with the chain of custody. I think what Ms Johnson was saying was—

The CHAIR: And I think there was no concern with the swabs either.

Mr BOSMAN: Correct, so it was just this one particular sample.

The CHAIR: Which were the swabs which were actually found to be positive, which is—

Ms JOHNSON: Negative. The food product was positive. I was not looking at the swabs; it was the food samples that tested positive.

The CHAIR: And you were not concerned about the chain of custody? You were concerned about the chain of custody for the food, weren't you?

Ms JOHNSON: At the time of our investigation our job is to protect public health, so it is gathering the information and things like that and making sure—

The CHAIR: Yes, I understand that, Ms Johnson. I am just saying that the positive tests were the ones that you now say you were concerned about the chain of custody.

Ms JOHNSON: The errors in the chain of custody related to actual documentation that Officer Rogerson did collect those samples.

The CHAIR: Okay, thank you. Can I ask Ms Garlick a couple of questions? Ms Garlick, I do not want to spend too much time on this, but what happens when you find a slug in a food preparation area?

Ms GARLICK: Well, as with any pest, I immediately look at the surrounding area to determine where it could have possibly come from and if there are any more. For example, cockroaches, because normally with a cockroach if you see one, there is normally more. To see if it is a wider issue you look at the surrounding surfaces to see if it is able to be accommodated, if there is harbourage of pests, and that is what I did at the time of the inspection.

The CHAIR: And then what happens to the slug that you have seen in the middle of the floor?

Ms GARLICK: Well, I did not really touch it. I observed it and then I spoke with Mr Michael Cook about the presence of that slug and from then—

The CHAIR: So you do not take it to confirm what variety it is or—

Ms GARLICK: I would not, no. It is more just about the presence of it and whether there are more that are present. I had a conversation with Michael Cook about the slug and asked him about the pest control for the premises. He said, I believe, it was Hayes Pest Control attended the premises regularly. However, he did tell me at the time that they do not specifically target slugs in their pest control activities. From that point I then noted that there was a gap beneath the nearby personnel door that led directly to outside the premises, and I then went and investigated what was outside that door, to which I found quite an accumulation of items and equipment outside.

The CHAIR: And you took a photo of that, which you have got here?

Ms GARLICK: I did, yes.

The CHAIR: So the slug was just left there and someone threw it away?

Ms GARLICK: I believe I indicated to Mr Cook to, yes.

The CHAIR: Mr Bennie, is it possible to get some information regarding other food preparation companies in the Dandenong region I guess to have some comparison as to the reports that we are getting around I Cook Foods, the investigations that have been done here, and see how they compare to other companies and other processes?

Mr BENNIE: The short answer is absolutely, yes.

The CHAIR: Thank you very much.

Dr KIEU: Ms Garlick, this is not the sole cause for closing down I Cook, but I would like to come back to the slug. You mentioned earlier that when you took the photo of that slug there was a piece of debris, but the photo you provided us is only of the slug itself.

Ms GARLICK: Yes, that looks like a potential photocopy so it does deteriorate, but if you look at the actual digital image, it does show the debris there.

Dr KIEU: There is not a piece of paper there.

Ms GARLICK: I believe that is there.

Dr KIEU: Thank you. As I mentioned, it is not the main cause. May I come back to Mr Bennie, the CEO?

Mr BENNIE: Yes.

Dr KIEU: Prior to your conversation with the Chief Health Officer late on the Tuesday night, did you have any conversation with the Chief Health Officer?

Mr BENNIE: No, I did not. The first time I ever spoke to Dr Brett Sutton was at 9.00 pm on that night when we introduced ourselves to one another over the telephone and I gave him an overview of my position on the board of Community Chef.

Dr KIEU: And during that conversation during that night at 9.00 pm, are you at liberty to tell us what was discussed in relation to I Cook?

Mr BENNIE: The matter was essentially that—and we had been advised, as I indicated earlier in my testimony—at 6.34 pm I think earlier that evening Dr Finn Romanes had sent an email to Leanne Johnson advising that the Department of Health and Human Services had begun to draft a closure order. It was less about the order itself and more about who was going to issue it and how it was going to be issued. The issue of who was a matter of ‘I have a conflict, I can’t issue the order, I can’t delegate the order’. Dr Sutton very quickly then concluded he had separate powers. He would utilise those powers, but he did ask that, given the urgency of the matter, could council’s officers serve the order, which then effectively became a matter for Mr Bosman in the implementation and those sorts of things to confirm that, yes, we could and it would follow through to 4.00 am the next morning.

Dr KIEU: But normally in the course of action the final say in closure decision-making resides with you as the CEO.

Mr BENNIE: Well, there are only two people, as I understand it, that can issue a closure order: the chief executive of the local council and the Chief Health Officer. I would expect, more often than not, matters within the local government authority, and I have served many closure orders or many correction orders or many prosecutions, are invariably done by the chief executive of the council. But here, where we have a conflict of interest, there had to be another solution found.

Dr KIEU: This was made very clear by you that you had to refer that to the department. Just coming back—this may be outside your domain—the cause of the death of the woman was not listed at listeria-connected.

Mr BENNIE: I am not aware.

Ms JOHNSON: The only information we received was on Monday afternoon from the department notifying that the listeriosis case had passed away and that all of the facts were unknown. I do not believe we have ever received a death certificate. It is with the department.

Dr KIEU: That is what I meant it could be outside your domain.

Ms JOHNSON: Yes. It is out.

Dr KIEU: That is all I have.

Mr ERDOGAN: I have got a couple of questions for Ms Johnson. I do not have a transcript of what was discussed last week—it does not help—but nonetheless, from the best of my recollection, I do remember Ms Rogerson referring to I Cook as a professional outfit and that she never had any issues with them in particular. Is that true? You said something about segregating areas. Would you agree that they were a professional outfit with no issues?

Ms JOHNSON: No, there are issues on our records to show non-compliances with the *Food Act*. In the context of ‘professional’ I do not understand what Ms Rogerson’s scope would be. They are a large company, and at the time their records showed that they were servicing 10 hospitals, eight councils, two aged-care facilities and two commercial. Looking at that tells me that they are a successful business.

Mr ERDOGAN: You touched on a point about who they are servicing. They were classed as a class 2, if that is correct.

Ms JOHNSON: Yes.

Mr ERDOGAN: If they are servicing, I guess, people who are elderly or people in hospital, is that the appropriate classification?

Ms JOHNSON: The classification system is gazetted, and a class 1 is where the business is producing foods predominately for vulnerable people. The company does have an independent food safety program and therefore they are going under the same stringent criteria as a class 1, because that is prompting a third-party audit report that class 1 premises also need to have.

Mr ERDOGAN: There is one other last question. I noticed that Mr Cook last week talked about a daily deep clean and today we have heard the terminology of a forensic clean. What is the difference between a deep clean and a forensic clean, and does deep clean have a well-understood meaning?

Ms JOHNSON: Deep clean implies that all of the equipment is taken apart, that it is properly dismantled and then it is properly cleaned and then sanitised before being put back together.

Mr ERDOGAN: From your observation when you entered the premises, did it appear to have a daily deep clean?

Ms JOHNSON: No. I actually found dried food residue on one of the blades of a large piece of equipment, and when brought to Mr Ben Cook’s attention—that was Wednesday, and on Thursday morning Mr Ben Cook told me that anything that had been found with that residue he had replaced.

Mr ERDOGAN: Okay, so there did not appear to be a daily deep clean. Okay. Thank you, that is all I have.

Ms JOHNSON: Thank you.

Ms CROZIER: Thank you, Chair. Can I just go back to some evidence that you gave, Mr Bennie, in relation to what you said about Community Chef and the council not selling their share of Community Chef, it was bought. So did the department approach councils? Did they approach you to buy Community Chef?

Mr BENNIE: For a whole lot of reasons that I have stated, I excluded myself from a lot of those conversations, so I am not—I was not directly involved in that. Again, I relied upon the Director, Corporate Services, to manage that aspect of it. But my understanding was yes, the department approached Community Chef in the first instance.

Ms CROZIER: Okay. And from your further understanding—because the witness behind you was nodding no, so I am a bit confused about whether the government did approach you or not—when did they approach you?

Mr BENNIE: Approach us? Or approach Community Chef?

Ms CROZIER: Well, the council.

Mr BENNIE: They did not approach council; there was never an approach directly to the council. The approaches always would have been to Community Chef.

Ms CROZIER: Thank you. Right, so when did they approach Community Chef?

Mr BENNIE: I do not know the answer to that.

Ms CROZIER: But aren't you on the board of that?

Mr BENNIE: I stood aside for a period of time, and I think any of the approaches would have been made after I stood aside from the board.

Ms CROZIER: Okay. So council had absolutely no role in dealing with the government or DHHS in relation to their shareholding of Community Chef and the recent negotiations that have been undertaken, is that correct?

Mr BENNIE: No, they did not. I can be clear on that aspect, and the answer is no. But no, the council did not.

Ms CROZIER: Okay. If I could just go back to the other issue. Ms Johnson, I think it was your evidence. You said that the Chief Health Officer said to speak to Mr Bennie without delay on the Thursday before the closure, was that you or—

Ms JOHNSON: That would have been Dr Finn Romanes, I had a—

Ms CROZIER: But you had a conversation with Dr Romanes?

Ms JOHNSON: Yes, on the phone.

Ms CROZIER: And Mr Bennie said he did not speak to the Chief Health Officer until 9.00 pm, but there were emails going back and forth to the department. What was that delay? Why didn't Mr Bennie speak to the Chief Health Officer?

Ms JOHNSON: There was a council meeting in progress, I was on the phone—on the mobile—to Dr Romanes and Mr Jody Bosman could see me pacing up and down outside the room, and he then spoke to Dr Romanes.

Ms CROZIER: So was the council meeting to do with the I Cook issue?

Mr BENNIE: No, it was not.

Ms JOHNSON: I do not know what the meeting was.

Mr BENNIE: If I can just elaborate a bit further, it was a council briefing session, as distinct from a council meeting; there is clearly a difference. It was a Thursday night, which again is unusual, but the process that we were going through at that time was undertaking service reviews. We were reviewing all of council's services and we had met for something like three or four Thursday nights in a row, so the briefing on that night was about a service review, coincidentally, on the directorate that Mr Bosman is responsible for.

Ms CROZIER: So there was no issue—even though this was an urgent issue, the department was speaking to you, a woman had died, the listeria issue, which you were saying was very urgent, and yet nothing was—you did not approach the CEO, Ms Johnson, to say, 'We need to speak to you, can you exit the meeting?'.

Ms JOHNSON: Mr Bosman spoke to Dr Romanes on the phone and he explained, and they agreed between the two parties. I was not involved in—that was the end of mine. I literally handed over the phone to Mr Bosman and he spoke to Dr Romanes, and then the next thing I heard was that we were having a meeting once the council briefing had concluded.

Mr BENNIE: Madam Chair, can I just—I know time is short—

The CHAIR: Yes, Mr Bennie.

Mr BENNIE: I do not have the email in front of me, but I can quote from the email that Dr Romanes sent to Leanne Johnson, and to follow up on that point, it states in that email:

As I explained to your Director just now on the telephone, we understand the pressure of time and appreciate that all parties are in a Council meeting expected to run until 10pm tonight. I hope that if the Order is prepared now, it will be able to be made and served as soon as possible after 10pm tonight.

In the end we finished the meeting at 9.00 pm and immediately called Dr Sutton.

Ms CROZIER: So the department did the draft order?

Mr BENNIE: That is what I have led in my earlier testimony, yes.

Ms MAXWELL: Can I just ask: what prompted those first samples on 1 February?

Ms JOHNSON: The department had instructed council. An email was received on 31 January, and in that the department had notified us that they were currently investigating a listeriosis case and they had identified that foods consumed by the person had included food supplied by I Cook Foods.

Ms MAXWELL: So given the background, history, allegations that have been made today and the reports that you have provided, whose responsibility would it be to provide a listeria management plan to I Cook—

Ms JOHNSON: The company—

Ms MAXWELL: They take that upon themselves?

Ms JOHNSON: Yes.

Ms MAXWELL: Okay. Can I just go quickly across to Ms Garlick. You did an inspection on the 18th and you stated that that was because of the illness. What time was that inspection done?

Ms GARLICK: I believe it was around 11 o'clock. I would have to check my notes as to what time that commenced.

Ms MAXWELL: And then you got back and found out after 4.18, when the council were actually notified, that the lady had passed away?

Ms GARLICK: Yes

Ms MAXWELL: Given the significant issues that are claimed in regard to I Cook and the evidence that you have produced today, if the lady passed away on the 4th, I am just wondering why it was not until the 18th that it was actually identified to you that a lady had passed. Surely from the day she had passed away it would have required an immediate response to I Cook Foods if that connection in fact was that that is where the listeria had been—

Ms GARLICK: I do not know the date the lady passed. The department was in charge of the investigation and council was notified on Monday the 18th that samples had tested positive and that we were to attend the premises and conduct an inspection.

Ms SHING: I would like to hear about what has changed at the council in relation to the litigation policy in the first instance where on the one hand I have heard from Ms Johnson that the absolute priority is public safety but on the other hand Mr Bosman's evidence has been that a cost of \$1.2 million was the sole reason for withdrawing the charges. I would also like to hear about any changes that have taken place in relation to the

rotation of officers given that it is evidenced that it has been a risk management strategy to rotate officers every few years when in fact it seems to have been the case, despite Ms Johnson's evidence that there was no issue with the performance of the EO in relation to inspections, that things had in fact been problematic for some time. So what has council done or doing given that there appear to be a few shortcomings in the processes around staying on top of these issues rather than being in a reactive space where after a fatality has occurred a whole lot of actions occur immediately?

Ms JOHNSON: I can speak to the management of the area—

Mr BENNIE: Can I respond in the broader and more general sense. We have not done any work on a litigation policy per se, but we accept that that is something that we do need to be looking at. As far as we are concerned, the urgency of the matter is dealing with the here and now and the matters of food safety and those sorts of things, which Ms Johnson will address very, very shortly. We, like, I would expect, any organisation, are committed to continuous improvement, and where we learn or understand or experience difficulties, we set out to review our processes and procedures to make changes to those. The reference had been made earlier to the audit, which we have been asked to consider making available, and that, too, was an aspect of seeking to understand what occurred. Once we know what occurred, we are in a much better position to respond to that and say, 'Well, we may need to improve in this'. So it is a work in progress, Ms Shing, and we do not have any definitive outcomes yet. But Ms Johnson can talk more specifically about the rotational changes.

Ms JOHNSON: Since the incident, 1 January, we have had a change of areas. And with that change I have also had a new manager come on board who I report to. He has been able to provide changes that have also included additional resources, and we also have conducted peer reviews. Last year our team underwent routine inspections and assessments, and they themselves did peer reviews of each other to get a better understanding of how each other operates. With the structure of the areas, they have all been set up where we now have two officers over a broader area so that we have got that support in amongst the team to help individual officers as well.

Ms SHING: Okay, thank you for that. Mr Bennie, you have talked about continuous improvement and you have talked about changes that need to be made over time. It has now been about a year and a half, so I am concerned that if public safety is guiding what you do and yet no changes have been made in achieving a better commitment to public safety through the work undertaken—putting to one side what Ms Johnson has just explained—that in fact it would be open for any business to say that they would take council to the wall and to see charges dropped as part of a decision-making process that prioritises costs to the public purse over public safety as it stands as an obligation under the *Food Act*. Help me to reconcile those things.

Mr BOSMAN: Ms Shing, there are two different issues here. One is the prosecution for breaches of the *Food Act* and the other is the assurance that the premises complies and is safe in terms of its production of food and that there can be confidence that the food and the premises is in compliance with the *Food Act*. Whether one chooses to prosecute or not does not in any way undermine the efforts or the actions taken by the health officers in ensuring that the premises is compliant. Those inspections will still take place, those risk assessments will still be done and the issues like closure orders et cetera still remain part of that toolbox. Choosing whether or not to prosecute does not mean that there is any more or less confidence in bringing about and ensuring the safety of premises or the safety of food consumed by the public.

Ms SHING: Right, well the problem that we have there is the perception in relation to actions taken or not taken to prosecute and a failure to affect any sort of deterrence where there are ongoing conversations with a business about pre-existing issues that are known to council which do not in prosecution and then it is only after a fatality that those matters change in terms of a decision to prosecute. So perception is obviously an important part of that particular work that council is doing. I would also be really interested in the document which the Chair has asked for around a comparison—sorry, Chair, not to paraphrase you—with other organisations around prosecutions, infringements and the sorts of dialogues that have happened with businesses to encourage them to improve to an acceptable standard, because, again, from the evidence that I have heard today I am still having trouble reconciling why it was that there was not an escalation of matters as identified at I Cook Foods in the years before the fatality occurred. Just any comment in relation to that, Mr Bosman, and then I will leave it at that.

Mr BOSMAN: Yes, Ms Shing, we have undertaken to provide such documents and such comparisons. And if I can just make a point again in respect of a comment that you made: the prosecution that I took to the Magistrates Court was not a prosecution as a result of the passing of an elderly patient; the prosecution that I took to the court was because of breaches of the *Food Act*. That was a separate matter to the death of the elderly lady. None of the charges that were laid or brought before the Magistrates Court related to the death of the elderly patient.

Ms SHING: And yet those matters had been raised with I Cook before in the context of serious breaches and had not resulted in prosecution. Is that correct?

Mr BOSMAN: The 48 charges that I brought before the court were ultimately withdrawn on my instruction for the reasons that I gave. In respect of other matters, other charges or other shortcomings in terms of breaches of the *Food Act*, it has been the evidence of Ms Johnson and Ms Rogerson that they were dealt with, they were attended to, at the time that they were found. Whether or not they should have been escalated is not a matter that I can speculate on now, but certainly the charges that I authorised were for breaches of the *Food Act* that were observed in the period of February 2019.

Ms SHING: But as a question of fact or as a statement of fact, there are previous matters that had been raised between council and I Cook Foods which did not give rise to prosecution in earlier years but which subsequently formed part of the raft of charges that were issued against I Cook following the fatality.

Mr BOSMAN: No, Ms Shing, that is not the case. None of the charges—and I am leaving the charge sheet with the committee—that were brought against I Cook in those that were withdrawn, none of those charges were of an historical nature. They were all for observations of breaches of the *Food Act* in the period of February 2019.

Ms SHING: Yes, I understand the period in which these matters as set out on the charge sheet took place. I am also referring back, though, to evidence which was given by Ms Johnson earlier today in the hearing that there were issues that had been raised following routine inspections over the years at I Cook Foods which identified pooling of water, which identified areas around placement and issues of risk of contamination, that had not previously been escalated to the point where prosecution was entertained but that form a similar basis to those matters which are set out in the charge sheet.

Ms LOVELL: Ms Johnson, as I understand it there were several ingredients in the sandwiches that had the traces of listeria on them. So was the depth of the investigation into the source of the listeria limited to I Cook Foods or did you investigate their suppliers to see, for instance, if it was on the deli meat? There are several suppliers of smallgoods in the state that that could have come from, and if it was out of their factory the listeria infection could have been much more widely spread around the state. So was it limited to I Cook Foods or did you go further than I Cook to find that?

Ms JOHNSON: Our investigation, our inspection, was focused on I Cook Foods. The information regarding suppliers was fed up to the Department of Health and Human Services, who were the lead investigator on this matter.

Ms LOVELL: Okay. Did you ask DHHS if they were investigating the suppliers, the other suppliers?

Ms JOHNSON: No.

Ms LOVELL: Okay. Also, I would just like to ask Mr Bennie: have any of your local MPs been briefed formally or informally on any of these matters since the closure of I Cook Foods?

Mr BENNIE: Not to my knowledge, no. But again for reasons of consistency of my declarations, I did not involve myself in numerous council briefings and I could only refer to Mr Bosman and ask whether he is aware of any briefings that were made of local members.

Mr BOSMAN: The answer is no.

Dr BACH: Ms Johnson, earlier on in your testimony you talked about the fact that there had been ongoing correspondence with I Cook Foods about this particular issue with the pooling of water.

Ms JOHNSON: Yes, the file notes show that it had been raised in past history.

Dr BACH: Is it possible for the committee to get any copies of any of that correspondence?

Ms JOHNSON: All correspondence? I will have to check the inspection reports, but I know the file notes made reference to pooling. Are you after both file notes and inspections?

Dr BACH: Yes, please, that would be lovely. Thank you. I confess I am still not entirely clear in my mind—noting your evidence that the decision to issue the closure notice was made by the Department of Health and Human Services, and we will see them a bit later on—about exactly what material, documentary material in particular, was provided by the council to the Department of Health and Human Services to inform them on making that decision. I understand, fine, that they made that decision so we can unpack that more with them. But just on that specific narrow question of the material that was provided by the council to the Department of Health and Human Services, can you help me understand that a little bit?

Ms JOHNSON: Documentation that was provided to the department included information relating to the food suppliers. That included the food safety program, which would outline the processes documented by I Cook Foods. There were a lot of verbal conversations had about the observations made on the day when I was liaising with the officer in the food safety unit and also communicable disease. Information we provided was regarding the samples, so photographs of the samples and documentation that was obtained at the time of that. That was the information provided.

Dr BACH: All right, fine, thank you very much. As I say, we can ask the department about that a little bit later on. We finished, Ms Johnson, before there was a range of other questions from other members, with me asking you about I Cook's history, I Cook's track record as has been presented to us by the council, and you referenced the fact that you were quite new in your role, and I accept that. I understand that. You do not know what you do not know. I am new in my role too. Nonetheless, looking at the evidence that we have got before us from council and noting what numerous other members have noted—that there had been no previous action taken against I Cook Foods on the basis of food safety—and the deeply contradictory nature of the evidence that this committee has received from you today and other witnesses last Wednesday, it would seem to me that really there are only two eventualities here that are possible: that either the ongoing issues with I Cook Foods were not serious or were, as Ms Rogerson said, just non-existent; or there was a very serious failure by the council. Would you accept that?

Ms JOHNSON: No.

Dr BACH: Well, can I come to you, Mr Bennie? Noting that you were relatively new in your role—

Ms JOHNSON: Yes.

Dr BACH: and the fact that, sir, you had said in response to questioning by Ms Shing that it was not your position to speculate about whether things should have been escalated against I Cook Foods, Mr Bennie, noting that now we have got all this evidence in front of us from you and from the council, should action from the council have been taken against I Cook Foods earlier?

Mr BENNIE: I would want to look more closely at the specifics of any of the previous evidence and situation to come to any conclusion in relation to that. I think you are confusing again some of what I might have said with what Mr Bosman might have said, but you are directing the question at me and I am giving you an opinion that I would want to look far more closely at the specifics and the matters of history to see whether, with the benefit of hindsight or had we had the opportunity again, we should have managed them in another way.

Dr BACH: Well, I wonder if there is anybody here present from the council who could answer my question?

Mr BOSMAN: Doctor, from the evidence that I have heard here today, yes, there have been historical issues, and it is apparent from what Ms Rogerson had evidenced as well that when issues were brought to the attention of the operators the officer dealing with it, in that case Ms Rogerson, was then satisfied that the

remedial action was then taken. So as Mr Bennie said, what those particular instances were and what the remedial actions and what those reports constituted I think we need the opportunity to have a look at.

The CHAIR: Thank you, Mr Bosman, and I understand Ms Johnson has made an undertaking to provide some of that information.

Mr LIMBRICK: Ms Johnson, one question I would like to ask is: given your experience in conducting these types of inspections, is it common to find slugs in the middle of summer? Because I am not an expert on slugs or anything like that, but I do not see them in summer normally.

Ms JOHNSON: I have never found a slug in a premise. I have found an earthworm in a kitchen. That is my experience of that type—

Mr LIMBRICK: So this is the first time you have heard of a slug being found in the middle of summer?

Ms JOHNSON: I could not recall a time of year, but I personally have not found a slug in a premise.

Ms VAGHELA: I would like to know what sort of certificate does Community Chef hold: class 1 or class 2? In terms of the licence permit, I would like to know. I will go back to Ms Johnson. You just mentioned that I Cook has a class 2 certificate or licence or permit—whatever the term you use—and then you also mentioned that they do not have class 1 because you were relying on the external third-party food safety program that they have.

Ms JOHNSON: In the classification system it is expected that an environmental health officer has undertaken an appropriate assessment of that premise and that it has been classified in accordance with the *Gazette*. At the time they were a class 2, but they are now registered as a class 1.

Ms VAGHELA: So what I want to know is—they had class 2, they were providing food to the vulnerable cohort—if you were relying on the third-party independent audits, would the officer ever go to the business and have a look at those audit reports and find out what the issues were and were the steps taken by the business to remedy those findings?

Ms JOHNSON: Yes, as part of the *Food Act* registration under the *Food Act*, in that registration period the business is required to provide council the certificate and the audit report, and then that is reviewed. So, yes, the officer would have an opportunity to review the audit reports.

Ms VAGHELA: And in that last audit report, or whenever you received those findings, how many of those findings of the 48 charges that were—

Ms JOHNSON: The audit report did not form part of the prosecution brief. The audit requirements that I Cook was required to undergo in 2019 post closure, they were a direction from the Chief Health Officer.

Ms VAGHELA: Yes, I understand that. That is the post—

Ms JOHNSON: But they did not bear on our prosecution.

Ms VAGHELA: That is after this event has happened. I am just trying to establish before this has happened, before all these things unravelled. If you are relying on that audit program, if the officers are going, are you checking their audit findings and seeing whether any actions are being taken by them?

Ms JOHNSON: Yes, that is routine that officers do conduct that practice.

Ms VAGHELA: That is routine. And in your routine inspection you never found that those things were identified as any complaints issues?

Ms JOHNSON: My inspection was not a routine inspection. It was in relation to the listeriosis. My inspection related to what was being found at the time—that we had a risk to public health with a known listeriosis case who we had known to have passed away who had consumed foods from I Cook Foods. My role as well as the department's is to remove any potential risks to public health. At that time we are just dealing with the facts at the time of what we are seeing.

Ms VAGHELA: Ms Rogerson visited the site on 1 February 2019.

Ms JOHNSON: Yes.

Ms VAGHELA: Prior to that, from the council who had visited the I Cook Food premises in terms of their inspection, whether that was scheduled or unannounced?

Ms JOHNSON: Officer Rogerson was the environmental health officer allocated to that area. Officer Rogerson was the routine officer.

Ms VAGHELA: When was the last audit of the site? Was it done prior to 1 February 2019?

Ms JOHNSON: I would have to check my notes. I believe it was 2018, but I can provide you information on that. I do not have it at hand.

Ms CROZIER: Could we have that, Chair—the last time you did the audit?

The CHAIR: Yes.

Ms JOHNSON: Yes, that will be part of the inspections and file notes.

The CHAIR: Ms Vaghela, thank you. Your time has expired, as has ours. Thank you; I know this is not necessarily a pleasant exercise, but we greatly appreciate the time that you have been with us. Given the documents that you did provide to us, Mr Bennie, in particular—I think it was referenced—on the past history, could we get some information about the outcomes of each of those reports? I think that would be very useful for the committee to further understand this. And from us, we will provide you with a transcript in the next few days. I do encourage you to have a look at it and ensure that there was no misunderstanding made during that. But thank you, all of you, again. Ms Garlick, thank you; Mr Bosman, Mr Bennie, Ms Johnson, thanks for your time. We look forward to receiving those documents. The committee will adjourn for 30 minutes.

Witnesses withdrew.

WITNESSES

Professor Ben Howden, Director, and

Dr Susan Ballard, BSc, PhD, Principal Scientist, Microbiological Diagnostic Unit Public Health Laboratory.

The CHAIR: I declare open the Standing Committee on Legal and Social Issues public hearing. Please ensure that your mobile phones are silent. There are not many people in the gallery now, but if they do come in: please be quiet. As we acknowledged earlier but just would like to acknowledge again: we are gathered on many lands of the Aboriginal people, and we pay our respects to their elders, both past and present. We particularly welcome any elders who are here today to impart their knowledge but also any Aboriginal people who are watching the broadcast of these proceedings. Welcome, all members of the public who are watching the proceedings via live broadcast.

The committee is hearing evidence today in relation to our Inquiry into the Closure of I Cook Foods. All evidence taken at this hearing is protected by parliamentary privilege as provided by our *Constitution Act* but also under the standing orders of the Legislative Council. Therefore any information you give today is protected by law. However, any comment repeated outside this hearing may not be protected. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament. As you can see, the evidence being recorded. You will be provided with a proof version of the transcript. We encourage you to have a look at that. Ultimately it will be published on our website.

So welcome. Thank you again for making the time to meet with the committee, and if you would like to make some opening remarks, we will then open it up to the committee discussion.

Prof. HOWDEN: Sure. Yes, I will introduce myself: Professor Ben Howden. I am Director of the Microbiological Diagnostic Unit Public Health Laboratory. It is a mouthful, but we are the department of health funded public health laboratory for Victoria that focuses on foodborne diseases and bacterial pathogens, and with me I have got Dr Susan Ballard, who is my Principal Scientist overseeing the activities of the laboratory.

I thought I would just give a brief overview of our role as the public health laboratory, if that is okay, then happy to take questions obviously. As I said, MDU, which is our lab, is funded by the Victorian government through the Department of Health and Human Services, and we provide specialist microbiology reference services really focused on the investigation, surveillance and control of communicable diseases and food and waterborne outbreaks. I am the Director, as I said, and my expertise is in medical and public health microbiology. Susan is the Principal Scientist, and her expertise is in bacterial typing methods, molecular biology and whole genome sequencing of bacterial pathogens.

MDU acts as the Australian listeria reference laboratory—this is since 2014. We receive isolates—they are bacterial isolates—or the genome sequence of isolates that have been performed in other jurisdictions for typing and strain comparisons using microbial genomics, and this is for all states and territories around Australia. Results of these analyses are provided to OzFoodNet at the Australian government Department of Health in Canberra, with copies to OzFoodNet epidemiologists based in each jurisdictional health department, inclusive of the Victorian Department of Health and Human Services communicable diseases branch.

Importantly, we hold accreditation under international standard 15189 for human pathology testing, which is medical testing, and ISO 17025 for environmental food and beverage health care, pharmaceutical and media products testing—this is called biological accreditation—and also animal or veterinary testing, and we hold accreditation for forensic operations across all of these fields. We operate under a quality management system, fulfilling agreements and meeting the requirements of ISO 15189 and Australian standards ISO 17025 and associated regulatory documents, which impacts on our accreditation, and we have accreditation under NATA, NPAAC, DHHS in relation to SSBA, the OGTR, and the TGA. So that sort of covers off our accreditation and the sort of frameworks that we work under. The work that we do in relation to listeria, the detection of listeria in food samples, is performed according to AS 5013, the Australian standard, and accredited to the international standard 17025, and we also have accreditation for our genomic—I mentioned the bacterial genomics work that we do—to IS 15189 and IS 17025.

So that is the overview of the type of laboratory we work in and the type of work we do. I am happy to give some specific details about the case isolates, if you would like that, or I am happy to take questions, whatever you prefer.

The CHAIR: Unless you would like to give a little bit of detail about the reporting in regard to the I Cook Foods reports that you undertook.

Prof. HOWDEN: Yes. So I will just give some general statements about that, which is that we receive samples from both human testing and environmental and food testing in our laboratory. The human samples come through from usually diagnostic microbiology laboratories around the state, whereas the food samples come directly from department investigations into potential food-borne outbreaks. In this case we received a human-derived sample of listeria, and we received some food samples on behalf of the Department of Health and Human Services, and these were both tested in our laboratory.

What we do is we go through a process of confirming that the sample is listeria or the food has listeria in it, and then we undertake testing to look at the subtypes. So we perform a number of what we call typing methods, so that is to look. Once we know it is listeria, we then drill down further and further to understand the exact subtype and go to the point of sequencing the whole genome of the bacteria. So this is an important technology in public health microbiology, where it is the highest discrimination of understanding how bacterial strains relate to each other. And so that is the way we would now generate our reports, and the reports that have been submitted to the epidemiologists are based on a number of typing methods, but most importantly on whole genome sequencing of the human and the food samples.

The CHAIR: Thank you, Professor. Committee, we have got about 4 minutes each for questions. We will probably go in the same order, except, other professor, you can start.

Dr KIEU: Thank you. I have a few questions. First, could you present from your end the time line of the issue related to I Cook—when you received the sample? And were you involved in testing for listeria connected to the death of the lady and subsequent samples? Secondly, the second part of the genome sequencing is very important—for example, with COVID now we can do that and find out the strain and see the connection. So in this case of the listeria in the I Cook case is there any definite—I should not use positive—identification of the connection between the one that you may or may not have found related to the lady's death and the food sample you received? And the last thing is: we have been hearing about how safe or how unsafe any level of listeria is for normal people, for pregnant people and for vulnerable people, so what is your point of view about the level of safety for those kinds of cohorts?

Prof. HOWDEN: I might ask Dr Ballard to present the time line, as she has prepared that, and then I will come back and talk about the genomic comparisons and the levels of listeria.

Dr BALLARD: I think the first important point to make is that we do not physically isolate the human isolate of listeria. That is done generally in a hospital diagnostic laboratory or it could even be in a private pathology. That isolate is then referred to us under the notification systems with the government and then we receive that isolate into the laboratory. In this particular case we received that isolate on 29 January 2019. Our first point there is to culture that isolate. It comes on a little bacterial plate, we grow it up a little bit further, and we actually store that isolate down in the freezer. We did that on 1 February 2019. Before freezing it down, we take a sample and we send it through for sequencing.

The food samples arrived in our laboratory—the four primary food samples that were received under chain of custody from the City of Greater Dandenong—on 1 February 2019. This was a Friday. They went straight into the fridge. We need a clear several number of days to process them, and our laboratory does not operate on the weekend. The samples were pulled out of the fridge on 4 February, and then they were processed for detection of listeria. Now, the food samples are taken in controlled amounts and they are emulsified. They are plated out onto media. We look for the growth of the relevant organism. We put it into enrichment broth to enhance the ability to detect that growth. Then once we have purified out those isolates we attempt to type them.

I believe we reported to the department of health on the 29/1 that we had received a human isolate of *Listeria monocytogenes*, and then we reported to the department of health on 11 February that we had a human—sorry, let me get my dates right. On 11 February we reported the binary type serotype, an MLST of the human isolate, so this is a subtype of the isolate—it is breaking it down like a telephone number. Then on 15 February we

reported that listeria was detected in the four food samples that we had received. On 21 February we reported the food isolate's binary type and serotype values, and then on 25 February we reported the MLST—multilocus serotype.

We then prepared on 26 February an interim OzFoodNet genomics report, which reports the relationship between the human isolate to the four food isolates. And then on 1 March we reported a full genomics report to OzFoodNet. Our genomics reports to OzFoodNet are fortnightly, and in the interim week we report any notifications of any obvious connections that have relevance to them.

Prof. HOWDEN: I will move on to the second question about the genetic relationships. I have a copy of the listeria report for 26 February 2019 in front of me. What this report highlights is that there were four non-human food samples that related to this matter and a human case that clustered together on the phylogenetic tree. We reported this as the four non-human food samples being highly related to each other and that the human case was possibly related to the non-human food samples.

This designation is based on previous work looking at the genetic difference between these samples. Listeria has about 2.8 million bases in its genome, and we found that there were less than 10 differences between the human sample and the food samples—but it was more than five. Because of the stringency of the criteria we use—for calling things 'probably' or 'highly' related, it is less than five; and then between five and 10, 'possibly' or 'probably', dependent upon epidemiological data; and then for greater than 20 we would say these appear to be unrelated—we classified this based on the genomic sequencing as possibly related. In that case our lab provides the genetic data, and then the epidemiology is what is then important. We are not privy to that epidemiology—you know, 'Did the person who had this sample eat the potentially related food?', 'What was the time line?' and those sorts of things—so we are not involved in that information.

Just to clarify further about the relationship, we have been recently requested to look at these samples in the global context. We do contribute to an international database called GenomeTrakr, which is run by the US Food and Drug Administration. Just a brief summary on that analysis: that database incorporates over 34 000 listeria samples, and an analysis of that, of the human sample that we are talking about in this case, showed that there were no other matches around the world in those 34 000 samples. The information that we have does confirm that this sample is possibly related to the food samples that we were talking about in the case. And then the level of listeria—I would just say that there are Australian standards around the acceptable levels of listeria in food, and we are not the ones who interpret and enforce those standards. We just report against the levels that we detect.

The CHAIR: Professor, we were presented with a report from the Doherty Institute that indicated that very similar samples have been found in Western Australia and Queensland.

Dr BALLARD: I think that there is possibly or potentially a misunderstanding there. There were no non-human MLST3 isolates presented in that report, I believe, that came from 2019. So if we are looking at the 26 February report—is that the report that you are referring to?

The CHAIR: Yes, it is.

Dr BALLARD: You will see a Queensland isolate listed. What appears to be close on the tree was a human isolate, for a start; it is not a food isolate. Interpreting phylogenetic trees can be misleading when you look at them from a visual point of view. The exact relationship has nothing to do with the vertical presentation of the data but with respect to the horizontal presentation of the data. If you were to look at it from a simplistic point of view and add up all of the different lines that connect those samples on the horizontal view, the distance between that Queensland isolate and the remaining Victorian isolates is quite long.

Prof. HOWDEN: It is summarised in the front part of the report where it talks about ST3. Sequence type 3 is a higher level classification of listeria. There are lots of sequence type 3 listeria samples around the world, but what the front page of the report suggests is that the four non-Victorian samples are highly related to each other and potentially related to the one Victorian case we are talking about. But there are no other cases that are potentially related. And then if you look at the colour coding on the tree, the sample that sits near these on the tree is actually in green and the code is that these recent cases are not linked to any other case and so no further investigation is required. So it is absolutely clear-cut that this Victorian human case is potentially linked to the

four food samples but not to any other cases in our databases, in the Australian databases or in the global databases.

The CHAIR: Right. So that would indicate you would be fairly confident that—

Prof. HOWDEN: We are confident these samples are closely related to each other. Our report suggests that the epidemiology will tell one way or another whether this is very likely to be the source of the disease or not.

The CHAIR: The level of listeria that was found, would that have typically made someone unwell?

Prof. HOWDEN: We detected—

Dr BALLARD: We did not report levels for some of the food samples, because they were only detectable on enrichment broth, so you cannot report the number of organisms present in the food sample; you have already amplified the growth of that organism. For the two food samples where we could report levels it was less than 10 cfu per gram, which is less than 10 colony-forming units per gram of material. I am not a medical practitioner, so I could not comment on whether that is sufficient to cause disease.

The CHAIR: I am sure I have not got the right terminology, but it would be considered an acceptable level or—

Prof. HOWDEN: We are not experts on the Australian standards, so we do not interpret the levels and then report on them in terms of acceptability. That is up to food safety professionals to do that, but our understanding is that that is below what is considered an acceptable level in ready-to-eat foods. But it is not our job to interpret that.

Ms CROZIER: Thank you for appearing before the committee this afternoon. Professor Howden, in giving an overview of what MDU do and the work that you do and talking about the samples received in terms of listeria outbreaks, can you define what an outbreak is?

Prof. HOWDEN: Any case of listeria technically does imply a potential outbreak because usually it is a foodborne source of disease, and so a human case of listeria would presumably, from the department of health's point of view, be considered an outbreak. I would say that that definition is an epidemiological definition that comes from the OzFoodNet epidemiologists at the department of health. In our minds within a laboratory we would consider any human case potentially to be part of an outbreak because there is presumably a food source of that disease, and so therefore there is a need to investigate the potential source of that.

Ms CROZIER: You kept reiterating 'possibly related', so it is not definitive in terms of the work that you have undertaken to identify the listeria in the samples that were provided. So there is that not wiggle room but just a cautious note in terms of what you do provide to the department of health. Is that—

Prof. HOWDEN: Well, I think that is appropriate, because we do not have the full story; we just have the laboratory side of the story. The interpretation of that data requires the whole picture. Did the person eat the potential food? We do not know that. We are just the lab doing the testing. Does it epidemiologically fit with the time line of when the food might have been consumed and the person got sick? Those are all things that the department of health and the epidemiologists there would know. What we are reporting is a very strict analysis just of the genetic data of the bacteria and how they relate to each other. We and other labs around the world have done a lot of work to look at the number of differences in the genome that would suggest that this is incredibly likely to be related—we can never say that this happened from this food to this person, because we were not part of that sequence of events and we are not investigating that—or it is very closely related but it does not fit into the first category or it appears to be unrelated; that is how we have classified it.

I feel like it is not my place to give an opinion on this at the moment, unless you particularly want me to do that, but it fits the classification of the middle. At the middle of that there were about nine differences out of 2.8 million. So there are 2.8 million bits in the genome, and nine of them were different between the human and some of the food samples. Even within the four food samples that were taken from the setting, there were seven differences between some of those food samples, so that shows you that even the diversity or the differences within the food samples are more than that cut-off of five. So although we call it 'possibly related', what we are doing is we are saying that it is not completely identical, we are worried about this and therefore we are giving

it that category of orange. It is not green, which is 'don't worry'; it is not red, which is 'definitely related'. But you then need to go back and investigate the epidemiology to make a determination.

Ms CROZIER: So the department would have done that epidemiological study to determine that.

Prof. HOWDEN: Yes, correct. The department would take our genetic data in the context of the rest of what they know about the case—the food and if it is an outbreak—and then they would be able to make a determination based on that. To give you the opposite end of the spectrum, if we had a food sample that was a completely different listeria type to what was in a patient, then we would confidently say that these are very different and this food sample you have provided here does not represent them.

Ms CROZIER: It was only one strain of listeria, was it, only one strain in this sample?

Prof. HOWDEN: In the food sample?

Dr BALLARD: In four of the food samples there was one strain, and it was the same. There were other food samples submitted where there were two different strains.

Ms CROZIER: Where did they come from? Where were they submitted from, the other samples?

Dr BALLARD: There were another two samples submitted from the City of Greater Dandenong that had a different listeria strain in them—an ST321—and then there was another food sample submitted by the City of Whitehorse that had an ST204 in it.

Ms CROZIER: Were any from the hospital?

Dr BALLARD: No, we only received one isolate from the hospital.

Prof. HOWDEN: The human isolate.

Dr BALLARD: Only one human isolate from the hospital.

Ms CROZIER: Not food from the hospital.

Dr BALLARD: No.

Ms VAGHELA: Was listeria detected at concentrations above the safe limit in any samples taken from I Cook Foods?

Dr BALLARD: I cannot comment on what the safe limits are.

Ms VAGHELA: How often do you see the presence of listeria in food samples in your lab? Is it very common you would see these results?

Dr BALLARD: It is not uncommon because it is part of a food safety outbreak. For example, we know the rockmelon outbreak was associated with listeria in the previous year, a year earlier. It was not uncommon to receive rockmelons and isolate listeria from that.

Prof. HOWDEN: I would qualify that response by saying that we are sent things to find the source of disease when there is an outbreak. We are not a food safety lab where we routinely get samples of food to check ad hoc. Do you know what I mean? We are investigating potential sources of disease in humans, so the samples we get are biased in that sense.

Ms VAGHELA: Is it the standard practice in the lab that once you get the samples you would just determine the presence of listeria first? And then, depending on if the finding was that, yes, listeria was present, you go upon the request to find the levels of listeria? Or that is the process?

Dr BALLARD: No, it is standard process to receive the food sample, to process it and if we grow it from the primary sample, to enumerate and report. It is standard process to report the identification of the organism that we have cultured from the food sample and then to go on and report the subtype of that isolate and then to go on and sequence it and report the genomic variety as well.

Ms VAGHELA: If the listeria level found is below the safe level, a healthy person might not have that much of an impact on his or her health. What would happen—with the level that was found in this instance, in the lady that died—if a similar patient was exposed to that level of listeria? Do you think the outcome would be dissimilar?

Prof. HOWDEN: I do not know if we can comment on that. We have reported the levels as we detected them. I do not think we can comment on that.

Ms MAXWELL: I am just trying to gain more of a chronological understanding. The first samples arrived on the 1st. The documentation I have here states that after the listeria infection of an 86-year old woman the laboratory released its first report on 11 February. How long does it take to grow those cultures?

Dr BALLARD: It takes around three days to grow the organism, or two days to grow the organism to a sufficient level to be able to harvest it for sequencing. It takes two days to prepare the samples for the sequencing instrument and over two days for the sample to go through the sequencing instrument itself, and then it has to go into bioinformatic analysis to get an interpreted result from that genome sequence. The exact time lines of processing a sample are largely dependent on the batch processing for sequencing, because it is a very expensive process so it is not done on demand on a single sample; it is batched with other organisms—not necessarily listeria, by the way. That limits or proposes the time line. In the case of the human isolate, we get the MLST from the genome sequence and we get the binary type and the PCR serotype from more rapid manual methods, other molecular methods that occur in the laboratory.

Prof. HOWDEN: It is worth noting that the primary listeria isolation and identification would have occurred at the clinical laboratory, so that result and the feedback to the clinician and the impact on the patient would have been at the primary laboratory. The sample is sent to us for this additional molecular characterisation which we do as part of our public health work, not as a diagnostic test.

Ms MAXWELL: From the time you received the sample, how long would it take you to then complete the report on the findings from those samples?

Dr BALLARD: We completed the first preliminary report on 11 February, and the first genomic report was not until the interim genomic report on 26 February.

Ms LOVELL: We received a report this morning that the Department of Health and Human Services supplied us that was the results of food samples and blood culture tests. There are several on 1 February that do not have the detected levels in them. I am just wondering if there—

Dr BALLARD: That gets back to how you grow the isolate up. As I mentioned, if we cannot detect the isolate on the primary plating step, we have to put it into what is called a broth and we grow it up. If you grow it up in a broth, you cannot count it. You can only count it if you plate it onto a solid media.

Ms LOVELL: We were told last week that there was listeria that was traced on several different ingredients. Do you test each ingredient to see if it is the same?

Prof. HOWDEN: No, the way the lab works is we receive all types of different food, but I believe in this case it was ready-to-eat sandwiches with a number of different ingredients and there were four different ones in the packet. Each sandwich was processed independently but not each ingredient.

Ms LOVELL: Right, okay.

Dr BALLARD: The standards require us to process them in 25-gram lots. So in the case of the mixed sandwiches, there were four 25-gram lots processed through. In the case of some of the other food samples—there were cucumbers, there was sliced silverside and there were other sandwiches—they were done in several 25-gram lots.

Ms LOVELL: Okay, so you cannot tell whether it was cross-contamination or whether it was—

Dr BALLARD: What do you mean by cross-contamination?

Ms LOVELL: Well, is it possible that one sandwich was contaminated when it was first put into the packet and the others have become contaminated from it?

Dr BALLARD: No.

Ms LOVELL: Or that there were contaminated ingredients in every sandwich?

Dr BALLARD: I could not comment on within the sandwiches and from where they were made, but with respect to our laboratory bench, we do not handle the pure isolates on the same bench that we handle the food products that we are attempting to—

Ms LOVELL: Oh, sorry, no. I did not mean on your bench, I meant within the packaging.

Dr BALLARD: Within the packaging, I could not comment.

Prof. HOWDEN: I think it is very hard for us to comment on that.

Ms SHING: Thank you very much for that. Dr Ballard, I am interested in understanding a little bit more about the distance between the Victorian and the Queensland isolates and the extent to which that means that they are less likely to be related. Can you just flesh that out a little bit more for my understanding, please?

Prof. HOWDEN: I can answer that if you want.

Ms SHING: Sorry, yes, Professor. Whoever.

Prof. HOWDEN: I spoke to it already. My apologies for not being clearer. For things that we consider not related, there are greater than 20 differences on the genome over that 2.8 million bases. I have not got the exact number for that particular isolate compared to the ones we are talking about, but the length of that branch on that tree suggests it is very different.

Ms SHING: All right. We have had a few descriptors of variables in your evidence of this morning. We have gone from ‘probably’ being around five I think, possibly around 10, ‘not related’ 20-plus if I am not misinterpreting what you have said. And the human case is possibly related to the non-human case, but then we heard it is very likely or potentially likely. And then you have also indicated that it is incredibly likely to be related based on the information that you have. Can we get a bit more specificity around that, just because we tend to work in questions of degree and because we are using non-scientific language we will have a very different layperson’s understanding of what those questions of degree mean as opposed to the usage that you have for them.

Dr BALLARD: There are three categories of relationships: unrelated, possibly related, highly related.

Prof. HOWDEN: Highly related is between zero and five differences across the 2.8 million, possibly related is six to 20 differences—my apologies, I think I did say 10 earlier, and I apologise for that.

Ms SHING: Right, yes.

Prof. HOWDEN: And not related is greater than 20 of those differences, and I think I mentioned that the human sample has nine differences to the food samples.

Ms SHING: Right. So within the lower range of possibly?

Prof. HOWDEN: Yes.

Ms SHING: Yes. And so what is the best way to find out if two listeria samples are linked to each other, based on the fact that you test both food and human samples? The department, just for a bit of context, maintains that the listeria that you received from I Cook Foods was very closely related to the listeria in the patient. What is your take on that?

Prof. HOWDEN: So there are two ways to look at this. One is to just look at these differences at the genetic level, and we would call that ‘possibly related’. So that is purely that measure, you know, the strict measure of zero to five, six to 20, greater than 20. It fits into that six to 20 category—

Ms SHING: As nine?

Prof. HOWDEN: Yes, as nine, correct. Then what you can do is take in the context of everything else we have in the database, which is a separate interpretation. And that is I guess what I alluded to earlier—where this is now being compared to every listeria sample we have in our Australian database and to 34 000 samples from around the world, and still this human case is not related to any other samples in that dataset. So the only samples that it is possibly related to are the food samples that are in question. Does that make sense?

Ms SHING: Yes, that confirms your earlier evidence. I think you said that it is clear cut that this Victorian case is linked to food samples and not to other cases. Is that circling back to what you said before, in the context of what you have just explained?

Prof. HOWDEN: Correct, yes.

Ms SHING: Yes, okay. All right. Thank you very much for that.

Mr LIMBRICK: I would just like to clarify something on the measurement of the levels. You said that for certain samples that have very low levels you have to amplify them using the broth.

Dr BALLARD: That is correct.

Mr LIMBRICK: And for those cases where that is required, does that mean that it is not actually possible to determine the level? When you send it back to whoever requested the sample, it would not be possible for them to determine the level. All you could say is—

Dr BALLARD: That is right. If we have to amplify the organism to isolate the organism, we cannot report a measured level in that sample.

Mr LIMBRICK: And so was that amplification required for all four of those food samples?

Dr BALLARD: All food samples received into laboratory go through both amplification processes and plating onto solid media for counting.

Mr LIMBRICK: And those samples that are related to this case—

Dr BALLARD: Two of them were recovered from amplifying and two of them were not.

Mr LIMBRICK: Right, so the levels were so low that you could not get them on the plating, but—

Dr BALLARD: The two food samples, but not for the other two.

Mr LIMBRICK: Right, and that would mean that for those two food samples it is impossible to determine the level because it is so low that, although you can detect it through amplification, you cannot through plating.

Dr BALLARD: That is correct, and that is why we do not report on levels for those.

Mr LIMBRICK: Yes, okay. All right, so that means that if there was a food safety level—that would be reported by someone else, not by your laboratory—it would only be possible to report that for two of the food samples and the other two would be indeterminate. Is that correct?

Dr BALLARD: That is correct.

Prof. HOWDEN: It would just be detected, but at no level.

Dr BALLARD: The report is 'Listeria detected'—full stop.

Mr LIMBRICK: 'Listeria detected', and then you would have some genomic data as well possibly—

Dr BALLARD: And then at various points there are other subtyping data that come through.

Mr LIMBRICK: And if it is only detected through amplification, what does that indicate with regard to the level that is actually in the food? Does that mean that it is a very, very small amount? I know you do not want to comment on the food standards and this sort of thing, but what does that actually mean?

Prof. HOWDEN: Microbiologically it implies, yes, it is at lower levels than what you can detect through direct plating. So you are correct in the assumption that if you have to put it through that amplification process, it is at a lower level—yes. So it is present, but because the amount of it is lower, it is harder to detect and you have to do that amplification process.

Mr LIMBRICK: Okay. Thank you.

Dr KIEU: I have time for one more question, just to try to understand. You have searched the Australian database and the international database kept in the US. So you have in your notes the differences with all of those with the one that has been discussed. Is it correct that they are all beyond the 20 differences, or do you have a better number than that?

Prof. HOWDEN: I do not have a better number. I do not have that number for all of the comparisons, but it is correct that there were no potential matches found. They were all greater than 20. Most of them are likely to be higher than that, but I do not have that number.

The CHAIR: Thank you. I think I am probably just picking up a little bit from Dr Kieu. In the report that we have received from Doherty, they look back at the human cases belonging to ST3 received in the past 24 weeks. On this document it looks like there is two from Western Australia, two from Queensland and one from Victoria. Is that correct?

Prof. HOWDEN: Yes. That is just a list of the samples that fit into this higher level category over 24 weeks, and then if you go further along on to the phylogenetic tree—it does not have a page number, I am sorry, but the ST3 phylogenetic tree—you will see that the non-human samples are all in red because they are highly related to each other. The Victorian human sample that is in question is in orange because it is possibly related, and the Queensland sample is in green because it is unrelated.

The CHAIR: Right. That is not on this report that we have received.

Prof. HOWDEN: Oh, okay.

The CHAIR: Great. Thank you.

Ms CROZIER: Professor Howden, I am wondering if you can help me. If the listeria was in, say, a product—one particular product in a sandwich that you tested—is it possible that it could be in some other food somewhere else? If it was in a meat product, for instance, and that meat product is distributed across the state, could that be a possibility in this scenario? Because you are only testing these samples of food that were given to you, but potentially there is this level that you have described of listeria which you said is possibly related, so you have put it into that band. Could it be a possibility that the listeria is evident in other food products across the state or even across the country, based on what Ms Patten has just described to you as well with those results?

Prof. HOWDEN: I think that is a question for the food safety people, I am sorry, because that is about the ecology of the listeria.

Ms CROZIER: Sure.

Dr BALLARD: The differences also in these isolates from other states are huge.

Ms CROZIER: Yes. But I am just wondering—even other states, but only because you have been given those samples to test—about the potential for the listeria, because we do know that listeria is present in food and there are levels that are—

Prof. HOWDEN: We cannot say it is not present in other food; that is correct. That is not our role to investigate that.

Ms CROZIER: I understand that. I understand you cannot investigate. I just wanted to know whether the level of listeria in this meat sandwich could have been also present in some other food product that is distributed somewhere else across the state.

Prof. HOWDEN: Yes.

Ms CROZIER: Thank you.

Ms VAGHELA: Just a quick one, thanks, Chair. How often do you receive samples of ham and corned beef where you see the presence of listeria?

Dr BALLARD: I could not comment on that.

Prof. HOWDEN: We would have to take that question on notice, I am sorry.

Ms VAGHELA: Because I would just like to know whether it is common to receive such samples or is it common to find listeria in these sorts of food products. I would like to know how often you receive such samples.

Dr BALLARD: We would receive food samples for investigation of listeria quite regularly—in fact every time there is a human isolate of listeria.

Prof. HOWDEN: We often do not find listeria, but I cannot quantify that, and I would say that is more a department of health food safety unit question rather than a lab question. The question you are getting to: we are biased towards the types of samples we get because they are potentially linked to cases. Just in a higher level answer to your question, we definitely get food samples where we cannot isolate listeria—yes. But I cannot quantify them.

Ms VAGHELA: I just wanted to know if you often get ham and beef samples where listeria is present.

Dr BALLARD: We get a lot of different foods coming into the lab. Do we always isolate listeria from them? No.

Mr LIMBRICK: One question just clarifying something: because we have the possibly genetic relationship between the human and food samples, that would mean that no-one could say with certainty that they are related unless they had other epidemiological information proving some sort of link, like they had eaten that food from this thing. So what I am asking you is: the genetic information alone is not enough to provide certainty; it shows that it is a possibility but it would be a requirement to have some sort of other epidemiological evidence, is that correct?

Prof. HOWDEN: Yes, I think that is a good point. It is actually easier to rule things out. So if you could say, ‘Okay, this human sample is completely different to anything that’s found in the food’, then you could be confident. Here we are stuck. As we have said, it was possibly related, and that is a result that needs to be interpreted in the epidemiological situation which we are not privy to. In the right epidemiological context it provides good evidence for a source of disease, but as I said, that is not our call.

Mr LIMBRICK: But conversely the human samples compared to the—

The CHAIR: Professor, can I just ask you to bring it closer to you?

Mr LIMBRICK: The Queensland sample and the Victorian human sample—you could have enough evidence to rule those out as being related to each other through the genetic evidence alone, is that correct?

Prof. HOWDEN: That is correct.

Dr KIEU: Just to follow up, yes, this is only a comment: in scientific theory you can rule things out but you can never absolutely prove that it is correct.

Prof. HOWDEN: Absolutely.

The CHAIR: Thank you so much, Doctor and Professor. That was fascinating. Yes, I certainly know more than I ever thought I would know about listeria and the genomes of it. You will receive a transcript of today's hearing. Please have a look at it. It will probably arrive in the next couple of weeks. If there are any glaring errors, let us know. Thank you very much for your time. We very much appreciate it. The committee will now close so we can get our next witnesses online.

Witnesses withdrew.

WITNESSES

Mr Joe Ciccarone, Chief Executive Officer, and

Adjunct Professor Hayden Raysmith, AM, Deputy Chair, Board of Community Chef, Community Chef.

The CHAIR: Good afternoon, and thank you for your patience and your willingness to join us today. I have just got a brief statement that I will need to read out as part of the hearing. I declare open the Standing Committee on Legal and Social Issues public hearing. Again, mobile phones on silent. Again, anyone in the room please keep the background noise to a minimum. As we have done in a more fulsome fashion this morning at the beginning of this public hearing today, I would like to acknowledge the Aboriginal people, the traditional custodians of the many lands that we are gathered on today, and pay my respects.

The committee is hearing evidence today in relation to our Inquiry into the Closure of I Cook Foods. All evidence taken at this hearing is protected by parliamentary privilege as provided by the *Constitution Act* and is further subject to the standing orders of the Legislative Council. Therefore information you provide to us today is protected by law. However, any comment repeated outside the hearing may not be protected. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

As is probably obvious to now, all of the evidence is being recorded today and broadcast. You will receive a transcript of today's hearing, and I would encourage you to have look at that. Ultimately it will make its way to the committee's website, so it will become public. Now, we would welcome any opening comments from you, and then we will open it up to a more general committee discussion. Again, thank you for making the time to see us, Mr Raysmith and Mr Ciccarone.

Mr CICCARONE: Thank you very much. Thank you, Ms Patten. I will start with a statement. Regional Kitchen, trading as Community Chef, is a social enterprise with a business model that places purpose before profit in the delivery of an essential service—delivered meals. It was held up by the Auditor-General in his May 2014 *Shared Services in Local Government* report as a positive example of a shared service model, a model later to be created through the collaboration of 14 Victorian local governments, with the support of both the commonwealth and state governments. Throughout its development, and in the 10 years of its operation, Community Chef has received cross-party support at all levels of government. It was created in response to a long period of poor-quality meals, shortcomings in meal safety standards and market failure that saw many providers come and go.

It was never considered desirable for Community Chef to be the only provider of delivered meals; we welcomed the involvement of other suppliers in this market. What Community Chef offered was nutritionally appropriate meals, a wide range of choice, high standards of food safety and a certainty of supply.

For many local governments, particularly in rural and regional areas, where it was difficult to get more than one supplier to respond to tenders, Community Chef provided choice. In recognition of the importance of providing choice, Community Chef meals were fully costed and far from the cheapest. With the transfer of aged-care and disability programs from the state to the commonwealth and the introduction of the consumer choice model it became clear that the collaborative, supply-based model would no longer be viable. Local governments around Australia were progressively exiting aged care and disability services, and although the consumer choice market-based model was being phased in more slowly in Victoria, the direction was clear. Over the last three years Community Chef has seen a contraction in both its meal numbers and local government meal-supply agreements. In response to this decline, whilst still servicing the needs of shareholder councils, Community Chef expanded its business in related sectors, such as residential aged care and hospitals. Recognising the long-term future of these changes, the original kitchen board undertook a strategic review to establish a viable, long-term business model whilst still continuing to provide meals for the vulnerable populations it was initially set up to serve. As with the establishment of Community Chef, the reorientation of the business was undertaken with the support of and in consultation with all three levels of government. Both the shareholder councils and the Victorian government provided financial support during this time to ensure that there would be no interruption to meal supply.

In order to fully utilise the high-quality, state-of-the-art plant and equipment and adjust to the declining involvement of local government in delivered meals it became clear that Community Chef's future, whilst

staying true to its purpose, would lie in expanding and supplying into the acute care sector. Realistically, in terms of risk management, for this to occur ownership would need to be transferred from the current 16 local government shareholders to the DHHS or a healthcare network. The need for a new kitchen was greatest at Western Health. Community Chef was located in the west, in Altona, and there would be significant savings if this transfer was integrated with the new Footscray Hospital development, which is still in its planning stages. Subject to agreement, which has now been reached, the transfer of ownership would ensure ongoing provision of meals to those shareholder councils wishing to still provide delivered meals, securing ongoing employment for Community Chef staff, relieve councils of ongoing debt and potentially save the state government in the order of \$40 million by not having to build a separate new kitchen.

We are pleased to have been able to adapt to a changing environment and to now continue to provide a quality meal service and a public benefit with a significant financial saving to the Victorian government. Further, in a declining market the business has a continued commitment to our local government shareholders' delivered meals program. Thank you.

The CHAIR: Thank you, Mr Ciccarone. We will open it up to questions from the committee now, and I will turn to Deputy Chair Professor Kieu.

Dr KIEU: Thank you for your submission. I just have a question on the funding that you just mentioned from different levels, including the state government. So, from which department and in what form do you receive funding from the state government, and is there any financial interest on the part of the state government?

Mr CICCARONE: The department we receive the funding through from the Victorian government is the Department of Health and Human Services, and that has come in a number of tranches. The first was a \$6 million grant provided before the facility was built, and since then there have been various repayable grants to the sum of around \$3.5 million with no interest.

Dr KIEU: Just to follow up, in the submission last week from I Cook there was a mention that they have had a patent or patent pending for a food form, which I cannot recall exactly, and then you also came to have that kind of food production or food form. Is it true, and is there any relation?

Mr CICCARONE: Thank you for the question. We have made texture-modified meals since day one. It is very important for the cohort that we serve, so we produce either cut, minced and moist or pureed meals, depending on the level of dysphagia of the person receiving the meals. Our production of those types of products has no relationship whatsoever to what I Cook was doing, and I had no knowledge of that.

The CHAIR: Thank you. It is interesting to see an organisation that is effectively government owned but in competition with the private sector. Am I correct in describing it in that way?

Mr CICCARONE: Look, we are a food manufacturing organisation owned by local government and have had support from all levels of government. We do not see ourselves in competition with anyone. We exist because there was market failure. Without us the vulnerable in communities would not have had the option or the choices required to live a normal life. So, no, I do not see that.

The CHAIR: Okay. Thank you. Has the closure of I Cook Foods had any impact on your business?

Mr CICCARONE: When I Cook Foods was originally closed we offered assistance to all businesses and councils that were impacted on the basis that we did not want any vulnerable people to go without food. So, for example, on that weekend we had one particular council scrambling—they did not have a backup. Myself and my team worked over the weekend to ensure we could get meals into their coldroom by Sunday so that old people and vulnerable people did not miss out for their first delivery on Monday. The ongoing benefit of that has been marginal. We only provided to many of those businesses and councils on a short-term basis whilst they organised other arrangements. In many cases, in terms of councils, they went to tender. We obviously put in bids for each of those, and the only tender that we secured was that for Glen Eira.

The CHAIR: Is Glen Eira one of the owners of—

Mr CICCARONE: No.

Ms CROZIER: Thank you very much for appearing before us this afternoon. You mentioned the money you have received from the Victorian government—your \$6 million grant and then a \$3.5 million repayable grant. Could you also provide the total amount of money you have received from state government, federal government and local government since the establishment of Community Chef in 2009?

Mr CICCARONE: I can provide it. For state government, I have provided you with that information already, so the \$6 million and the \$3.5 million approximately. From the commonwealth government we received \$9 million as a grant. And I will have to take that final question on notice. There was contributed capital by all shareholders at startup and periodically throughout our history, but I do not know that sum accurately.

Ms CROZIER: And what about any money borrowed from financial institutions such as banks?

Mr CICCARONE: Yes, we also have a loan facility in place with a bank. That was initially \$10 million, and that has been paid down to \$7 million.

Ms CROZIER: Can I ask in relation to some evidence that we got this morning from some board papers, Mr Bennie was at a meeting on 22 February, and the board papers show that there was some financial difficulty with Community Chef. So can I ask what financial difficulty or—‘tight’, I think, the term was. I just have to get it:

The cash position is tight, and some Councils had agreed to bring forward their advance payments.

So there were obviously cash flow problems for your organisation, and then there was discussion about whether the state government would buy into the business or whether shareholder councils should be asked to contribute further. Now, can you please provide to the committee what discussions you have had with the state government in relation to taking you over or buying you out, because Mr Bennie this morning said they did not sell, that they were bought out, and I would just like you to give the committee an understanding about the government’s involvement and the department’s involvement in the latest acquisition and how much was paid for Community Chef to be established in Western Health by the government.

Mr CICCARONE: Thank you for the question, Ms Crozier. Firstly, I am surprised that our board papers have been made available to anyone. We have received no FOI request for their release, so I am actually quite surprised they are in anyone’s hands.

Ms CROZIER: Well, you might be, Mr Ciccarone, but could you just answer the question, because they have been received by FOI and they are here with the committee. And I know that I am having trouble getting FOIs out of the department and the minister, but I am really keen to understand how much Community Chef was bought for by the government.

Mr CICCARONE: That matter is commercial in confidence, and that is best answered by the Department of Health and Human Services—

Ms CROZIER: Well, I think it is an important question. I am sorry to interrupt you. I think it is a very important question to understand because a commercial business has gone out of operation. You are a major competitor. The government has been denying information in the Parliament, and we need to understand exactly how much Community Chef was bought for by the government, because Mr Bennie this morning said they did not sell, it was bought off them. And I think it is very important for the committee to understand that.

Mr CICCARONE: My only commentary that I can provide on that is that there is an offer out to councils for the purchase of—

Ms CROZIER: How much is the offer, Mr Ciccarone?

Mr CICCARONE: The councils have not agreed to that as yet. And that, Madam, it is something I would defer to the Department of Health and Human Services on.

Ms CROZIER: Well, can I ask, then: what are the time frames for the councils to make that decision? Because it is my understanding that the decision was made last week for Community Chef to fully operate out of Western Health. Is that correct?

Mr CICCARONE: My understanding—that has been publicly reported, and—

Ms CROZIER: So what else is there to negotiate?

Mr CICCARONE: Well, it is a matter of the shareholders looking at the terms and conditions of the sale and ensuring they are satisfied that everything is in order, as they should do. And to answer your earlier question—you asked when the sale will be transacted by. I would imagine it will be within the coming weeks.

Ms CROZIER: There were reports that it was \$1 per council, or a peppercorn amount, is that correct?

Mr CICCARONE: I cannot make comment on that. I am not authorised to comment on that matter.

Ms CROZIER: Well, I would say again that a commercial operation went out of business and you are a major competitor. This goes to the heart of some of the issues around the inquiry, and I think it is regrettable that you will not provide the committee with that of information.

Mr CICCARONE: I am not authorised to make those sorts of comments or provide that information.

The CHAIR: Mr Raysmith, would you have any comments on this line? Thank you.

Ms VAGHELA: Before I start, I would like to know, a Community Chef business—what sort of certificate to you have in terms of class 1 and class 2? Which one do you hold?

Mr CICCARONE: We are a class 1 facility.

Ms VAGHELA: You are a class 1 facility. So how often does the council visit your premises to do the inspection?

Mr CICCARONE: My understanding is that it is at least annually, and it is done without notice. However, I will take that question on notice and provide further information if I have misspoken.

Ms VAGHELA: Is it scheduled or unannounced?

Mr CICCARONE: Typically unannounced.

Ms VAGHELA: Okay.

Mr CICCARONE: Sometimes they do give us a couple of days notice but typically unannounced, as with any form of inspection.

Ms VAGHELA: So it is not uncommon for the health officers from the council to visit your business unannounced, that is not uncommon?

Mr CICCARONE: No, it is not uncommon.

Ms VAGHELA: And have you been in a situation where the officers have been there and they have found a lot of non-compliance issues, and can you please take me from there to what happens after that?

Mr CICCARONE: To the best of my knowledge, there have not been any significant non-compliance issues found by council EHOs conducting audits of our facility. However, once again, I will take that on notice and provide further detail if I find anything to the contrary.

Ms VAGHELA: Yes. It is just that in instances where there were issues identified, what I would like to know is: what do you do after that? Once you remedy the actions, does the council come back and check whether those actions were taken to remedy whatever the non-compliance issues were or do they then move on from there and you move on from there as well? Those are the things I wanted to identify.

Mr CICCARONE: I would imagine that that would be true. Like with any audit, if there are issues identified, whether they be minor or major, the company is given a set amount of time to respond and show evidence that the matter has been rectified, and only at that point will the appropriate certification be provided to the facility to continue operating.

Ms VAGHELA: Okay. So if you have the class 1, then do have any independent, third-party auditors come and audit your site on any periodic basis?

Mr CICCARONE: Yes, we have an annual HACCP audit.

Ms VAGHELA: Do you provide those reports to the council or they are happy with you just continuing those audits and you do not have to provide those reports to the council?

Mr CICCARONE: I believe we are required to provide those audits to the council as evidence that they have been conducted. Once again, I will take that on notice and provide that answer.

Ms VAGHELA: I would like to know whether you are providing them or you are required to provide them or council actually asks you to provide those reports. I would like to understand that a little bit better, so if you are able to provide us the information, that would be good. Thank you.

Mr CICCARONE: No worries.

Ms MAXWELL: Thank you for coming today, gentlemen. I am just wondering how many of the previous organisations that I Cook supplied to has Community Chef now picked up?

Mr CICCARONE: Two, and there is a caveat on that. One was Glen Eira, and we secured them through an open tender process. We did put in bids for many of their other council customers that went to tender and were not successful. Further, there is an aged-care facility in Rosebud that have continued supply from Community Chef. The further information there is that we already had an established supply contract in place for that organisation, which is Mercy Health.

Ms MAXWELL: Just so I can confirm what Ms Vaghela was saying, you have an audit annually?

Mr CICCARONE: Correct.

Ms MAXWELL: As far as you are aware, you have had no previous compliance issues?

Mr CICCARONE: None that would require the cessation of manufacture. Minor issues are picked up I am sure, but things that can be rectified as a matter of course.

Ms MAXWELL: And you would be able to provide us with those previous reports?

Mr CICCARONE: Of course.

Ms LOVELL: Hi, and just for full disclosure, and also a fun fact for the committee, Community Chef said they were located in the city of Altona; I actually began my political career as a junior councillor on the old City of Altona council, so I know the area well.

Mr Bennie told us this morning, in relation to the board meeting that was held on 22 February, that he did not need to declare a conflict of interest at that meeting even though he had given a report on the closure of I Cook Foods at that meeting, because he had a standing register of interests declaration with the committee. Now, normally any standing declarations form part of the agenda and the board papers for that meeting. So I was just wondering if you could supply us with that standing declaration as it was in those meeting papers.

Mr CICCARONE: Look, I understand that, and I am happy to provide that. I will take it on notice and provide it as required.

Ms LOVELL: Also, the board minutes go on to say that in response to the situation with I Cook Foods Community Chef decided to communicate to all council customers to highlight that it was not a Community Chef product and they also contacted others to advise them that Community Chef could provide assistance where required where I Cook Foods was no longer able to provide that assistance.

Whose idea was it to communicate that Community Chef could assist other customers that were affected by the I Cook closure?

Mr CICCARONE: That was my decision; I made that with my team. So the chronology of the events on that day was that we were unaware that it was I Cook. We started receiving calls from our own customer councils asking what was going on. We had not heard the reports. As the day unfolded the matter became public knowledge, and only at that point did John Bennie then divulge the detail, and none of it was further or in addition to matters or information that was already in the public arena.

Ms LOVELL: Before, in response to Ms Vaghela's questioning, you told us that you were a class 1 facility.

Mr CICCARONE: Yes.

Ms LOVELL: Are you able to advise us when you became a class 1 facility?

Mr CICCARONE: I will have to take that on notice, and I am more than happy to provide that information.

Ms SHING: Thank you very much, Mr Ciccarone, for your evidence. I would like to understand a little bit more about the protocols in place for managing council membership as shareholders to the extent that they have previously operated, because if you are looking at a transfer from 15 shareholders to the department, for example, that seems to exempt a whole lot of people. How do you manage those sorts of issues as a matter of course given the unique circumstances of Community Chef's set-up?

Mr CICCARONE: I can take that in two parts. Initially councils received approval to become shareholders in the business, and along with that there was an exemption from going to tender. So they are two things. With the transition to Western Health and further supply contracts with each of the councils, that is a matter that has been dealt with with Western Health, the department of health and the appropriate ministry, so the Minister for Local Government.

Ms SHING: So how involved, though, have individual shareholder councils been in the time that you have been there in the operation of Community Chef?

Mr CICCARONE: They have very little involvement in the direct operation of Community Chef. They are in a unique position of being a shareholder and a customer. There are various levels of committees in which they provide their input into menus and the like and also give us ongoing feedback, so in aid of continual improvement, but the day-to-day operation is left to myself, my executive team, management team and employees, overseen by the capable board that is in place.

Ms SHING: And how do you manage the preservation of confidential information, which you and your team and the board would know about, to the extent that that might have a material impact on some of the council shareholders' operations?

Mr CICCARONE: The sharing of information is done to designated and authorised recipients of that information in each council.

Ms SHING: How are those people designated and authorised?

Mr CICCARONE: If we are talking about any matter regarding the business and shareholding, each council has a designated shareholder representative that is endorsed by council and they attend the shareholder meetings. So when communications are sent out, they are sent out through that designated person.

Ms SHING: Okay. Thank you for that. Community Chef, you have indicated earlier in your evidence, does actually pitch competitively against other providers. I think that is how you have secured the open tender process that has led to Glen Eira and also your existing relationship with Mercy Health translating into a contract. You do not work exclusively for councils though, do you? You have indicated aged care. Which other sorts of operations do you provide services to?

Mr CICCARONE: Aged care, prisons, direct supply to NDIS clients—as councils have transitioned out of that space, there was a great need. It is not something that we actively wanted to pursue. We were a business-to-business sort of organisation, so there were complexities in delivering to the door. However, because there is a community need we do that as well.

Ms SHING: Right. And I understand that that community need has gone back, I think you said, until 2009 when Community Chef was established and that you have received money in the form of grants and repayable loans. Can you take on notice perhaps if you cannot answer it right now the years in which grants and/or repayable loans were provided to Community Chef and give that information to the committee as well, please?

Mr CICCARONE: We will take that on notice.

Ms SHING: Thank you. Just finally, you have talked about moving, as a result of your strategic review of direction, into the acute care sector and expanding into that area. You have also said that you have made texture-modified food since day one. What was the proportion of texture-modified food that you began manufacturing as a part of your offering on day one, and what does the expansion of that look like now that you are moving into acute care? What is the difference in percentage, do you think?

Mr CICCARONE: It has not moved very much because the cohort that we serviced is being kept healthy in home in situ to avoid going into aged care. So the proportion is about the same. We are talking less than 5 per cent. I do not know—

Ms SHING: You are saying that less than 5 per cent of your overall output is texture-modified food as an increase following this strategic review indirection?

Mr CICCARONE: No, not as an increase. Just overall, there is less than 5 per cent. It has not shifted very much. But I am happy to take that on notice and do the analysis and provide that to you.

Ms SHING: Thank you. If you could just do that before and after shot of texture-modified food—I think you have referenced three different types of texture-modified food in your evidence, so just looking at how that has occupied a proportion of your overall output then and now. Thanks very much.

Dr BACH: I will cede my time to Ms Crozier.

Ms CROZIER: Mr Ciccarone, Mr Bennie this morning said it was mid-morning he provided an update to Community Chef through those board papers that I referenced to you and to him earlier today, but you said in your evidence just now that it was during the day—as the day went on you became aware of what was evolving with I Cook Foods. I believe that it was a later time frame that it was out on radio and made public about the closure of I Cook Foods. So it is a very tight time line between this board meeting starting at 9.30 am, with Mr Bennie saying it was mid-morning he provided an update to you and others at Community Chef, and then you saying as the day went on learning about what was actually going on. I am a little bit concerned about the tight time lines and the issue around the closure at 4.00 am and you having a 9.30 am meeting that was about planning where it was discussed. The minutes that the discussion of the issue around the closure of I Cook Foods and about potential other issues around the finances but also the issue around other opportunities that may need to be undertaken due to the closure. Can you please provide to the committee some understanding about your specific time lines about when you were made aware? From all the evidence we have received, it is not quite stacking up in terms of the tight time lines and what you and Mr Bennie have provided to the community, and I am keen to understand that.

Mr CICCARONE: ‘During the course of the day’ is a turn of phrase. I was not referring to a specific time. My recollection of events was that we started receiving calls from our own customers saying something had been reported on the radio—

Ms CROZIER: What time was that, sorry to interrupt?

Mr CICCARONE: It was before the meeting started, before our meeting had started.

Ms CROZIER: Before 9.30 am? In the morning?

Mr CICCARONE: Yes.

Ms CROZIER: And when was it made public? When was the closure of I Cook Foods made public, do you know?

Mr CICCARONE: I cannot be certain. It was quite a while ago, and I did not think to record the exact time that it became public knowledge. But the sequence of events was we started hearing that a food manufacturer was closed, so we put our own statement out. Then there was further public knowledge of the event and I Cook being named. And then Mr Bennie provided context. That is a sequence of events. Now, I cannot say specifically what time that happened, but it was before the afternoon. Was it around 10.30 am? Perhaps. I honestly cannot recollect.

Ms CROZIER: So it obviously was discussed early on in the meeting of that morning of the 22nd, because you would have been receiving phone calls and obviously there would have been a need for a strategy put in place by Community Chef to deal with potential filling of the gaps, if you like, for those—

Mr CICCARONE: Affected councils, yes.

Ms CROZIER: Yes, to be able to assist in providing Meals on Wheels or food or whoever for whatever reason to supply those aged-care facilities or whoever had contacted you to say that we need some assistance.

Mr CICCARONE: Yes, that was discussed, and like I said, whether it was 10.30, 11.00, 11.45, I cannot say with any absolute certainty because the day was a blur. We were having a planning day, which is very information intensive anyway. My focus was on working with the board for our forward strategy. This was an added complication on that day, so the time—

Ms CROZIER: But I Cook was not named until 2.00 pm, and the issue is that Mr Bennie came from the council to your meeting, obviously having an understanding of what was going on.

Mr CICCARONE: Named by whom? By the department of health or named in the media?

Ms CROZIER: Publicly.

Mr CICCARONE: I am not certain of the exact time lines—the exact time that it was announced. My recollection was morning, but I cannot say with absolute certainty.

The CHAIR: Thank you, Ms Crozier. There may be time for some people to come back for questions.

Mr ERDOGAN: Thank you, Mr Ciccarone, for coming here today and answering our questions. I just have a question about what steps you take to prevent listeria outbreaks at your food premises, and do you have a listeria management plan?

Mr CICCARONE: I will need to take part of that on notice, but I know we have very strong food safety practices in place at the facility. Clearly we have HACCP certification. We get audited by an external auditor and by the Hobsons Bay City Council on an annual basis. But I am happy to take that on notice and provide all that information.

Mr ERDOGAN: Yes, please. Could you please just let us know specifically if you had a listeria management plan. In particular I really want to know if there was a strategy just targeted to listeria.

Mr CICCARONE: I am more than happy to provide that.

Mr LIMBRICK: Thank you for appearing today. I have got a couple of questions around the exemptions from the *Local Government Act* in responding to tenders. Will that exemption remain after ownership is transferred from these councils to the department of health?

Mr CICCARONE: That is a matter that is being discussed amongst the Department of Health and Human Services and the Minister for Local Government's office.

Mr LIMBRICK: Okay. So you were in competition with the private sector on certain councils because, you mentioned, you put in for tenders and you won one at Glen Eira council and lost others. Some of these affected councils, when I Cook Foods was shut down, you went in to establish contracts with them so they could maintain supply. Had you ever tendered for those councils before and lost the tender to I Cook Foods?

Mr CICCARONE: Possibly. I will have to take that on notice. Just to be clear, there was no contract established for the supply. We provided all the appropriate certification, we provided a credit check and moved on from there. We understood that in all of these instances it was only for a short term whilst councils sorted out what their longer term plan was.

Mr LIMBRICK: Okay. So it appears clear then that Community Chef in some realm was in competition with I Cook Foods and presumably other providers when it has gone in for tender processes. Does it concern you then that one of your shareholders, which is the City of Greater Dandenong, effectively was the entity that regulated and shut down I Cook Foods? Is that of concern to you, like some sort of conflict of interest?

Mr CICCARONE: I do not believe so, as long as that conflict or potential conflict is made clear and declared. I would be surprised if there are any councils that we supply to that do not have food manufacturing premises within their boundaries. I do not see them as competitors; I see them as providing choice—further choice—to those in the marketplace, just as we do.

Mr LIMBRICK: Okay. Can I just go back to this exemption from going to tender that you have with your shareholders. What is the rationale for that exemption?

Mr CICCARONE: I am not the best person to provide this information. I am happy to take that on advice, but typically the rationale was linked to the ownership of the business to encourage others to become part of a shared service model, and also that the main rationale was to create security of supply at a time—

And you need to understand, when we came into business, there was market failure: councils were not getting bids for their tenders. It was a dire situation. So they wanted to make sure they could have security of supply—food security—for the most vulnerable in their communities.

Mr LIMBRICK: And so if that rationale, the rationale for the tender exemption, was linked to ownership, then that rationale would no longer exist after ownership transfer to DHHS?

Mr CICCARONE: I cannot comment on the legal ramifications of the transfer of business. Once again, that is a matter for the DHHS to sort out in due course.

Ms MAXWELL: Are you able to describe to me what makes it more applicable for you to be able to provide food to the disabled as opposed to the private market? It states here that they were unable to meet those demands.

Mr CICCARONE: Sorry, I do not understand your question. Who states that ‘they were unable to meet those demands’?

Ms MAXWELL: So it talks here about the joint venture of Community Chef to address local councils’ concerns that the private market was unable to meet the long-term food security needs of the disabled and others.

What makes Community Chef able to meet those demands as opposed to, for example, I Cook Foods?

Mr CICCARONE: Okay. Well, I cannot comment on I Cook Foods—their business structure and their strategy and which markets they want to enter—so I will set them aside. We are set up to provide meals to those most vulnerable in the community, being the elderly, the infirm and those with disabilities. The councils made that conscious decision to start a food business to provide food security. I am not sure what else I can tell you.

Ms VAGHELA: Which council would visit your business for food safety inspections?

Mr CICCARONE: Hobsons Bay City Council.

Ms VAGHELA: Did you have one dedicated officer who would come and do the annual visits that you mentioned or would that change every year?

Mr CICCARONE: I am not aware of who comes out to undertake the audits. My impression is, though, that it does change regularly. But I am happy to take that on notice and provide you with that information.

Ms VAGHELA: Are you aware of any criteria when the officers visit the site—whether they should come with the body camera or they should come without the body camera? Are you aware of any of those criteria?

Mr CICCARONE: I have never noticed any of the food safety auditors wearing body cameras, but I would imagine that every council sets their own agenda with regard to that.

Ms VAGHELA: So maybe that might vary from council to council. Were there any situations in the past where your business was referred to DHHS?

Mr CICCARONE: No.

Ms VAGHELA: Were you ever served closure orders in order to measure non-conformances found?

Mr CICCARONE: No.

Ms CROZIER: I just want to get some clarification around the answers to Mr Limbrick's questions. You mentioned security of supply. So did the closure of I Cook Foods increase Community Chef's ability to have security of supply?

Mr CICCARONE: To increase our ability to supply councils?

Ms CROZIER: Yes. Well, you were talking about security of supply. So with the closure of I Cook Foods, did that increase your ability to have that security of supply?

Mr CICCARONE: We have redundant capacity or spare capacity, so we were able to meet the surge needs of those councils that required it for that brief period whilst they were sorting out their affairs. They then went to tender. We put in bids for most of them and secured one.

Ms CROZIER: Well, in board papers in April 2019 you talk about a broader food service strategy that was presented to the minister's office. Could you explain to the committee what that included? Because it was in reference to the I Cook issue. There are clear issues around I Cook having closed down and the department asking about disaster recovery plans, but you were to present to the minister's office a broader food service strategy. Can you explain to the committee what that entailed?

Mr CICCARONE: As I mentioned previously, I do not wish to make comment on anything within the board papers without first consulting with the board directors.

Ms CROZIER: I have got them here; so have the rest of the committee. So I am not sure why you are being so evasive, because under freedom of information we have got these. Is there anything to hide? It is just a straightforward question.

Mr CICCARONE: No, nothing to hide. I am surprised that you say that they have come under FOI, because typically if there is an FOI and it involves a party, then—

Ms CROZIER: If you are not going to answer, I will just move to my next question. There is also talk about a transition strategy and that the minister was encouraged, after a visit by another minister, Minister Horne, to approve a transition strategy, so I think that would be also very helpful for the committee to understand what the transition strategy was for Community Chef and what discussions were had with the minister's office in relation to those two elements.

Mr CICCARONE: I think, as with any sort of commercial-in-confidence discussions, the board and the executive management team made the decision that they wanted to move into different spaces. Now, the various aspects of that strategy are commercial in confidence. Once again, that is a matter that I would need to consult with my board on before making any further comment.

Ms SHING: Mr Ciccarone, I have got a question for you in relation to the purchase, which is the subject of a lot of speculation. But in the event that the value of Community Chef were to go up because of a greater market share, whether in pre-prepared or in texture-modified foods, would that then have an impact on the purchasing arrangements, negotiations and terms in a way that would, in your opinion, adversely impact on any purchaser?

Mr CICCARONE: I do not think I am in a position to speculate on the value of a business based on hypothetical outcomes. The reality is—

Ms SHING: What we have here, though, Mr Ciccarone, is we have a series of hypotheticals, and the terms of reference here invite us, as a committee, to reach into some very significantly differing versions of events and differing views about the motivations that sit underneath those events. One of the theories that has been put through evidence of other witnesses to this inquiry is that there was an inappropriate level of interference such as to improve the market share for Community Chef across a range of different offerings and therefore to boost the way in which a department might gain a share of that market through acquisition. It strikes me as somewhat counterintuitive, where Community Chef were to gain a greater share of the market, that this would not then push up the price of any such going concern that did become available for purchase. Have you got any view on that?

Mr CICCARONE: Well, no, I do not really have a view on that. The main thing, if you allow me to make a comment, is that any business or any provision of meals into any publicly run health service is governed by Health Purchasing Victoria. To go outside of those bounds an exemption is required. So to say that we were going to be given business is incorrect. We would only be able to be given business if the business is owned—not given, provide the service required by the health service is a better way of saying that.

There is an old, dilapidated kitchen at Footscray. We have got a state-of-the-art facility here that has been supported by all levels of government, all parties, and it is available for use by the state. It seems to me that that is the best possible use for this facility. Whether that impacts on what the purchase price of the facility is, I am not qualified to answer that

Ms SHING: But as a social enterprise your business is not that of making money, is it, Mr Ciccarone?

Mr CICCARONE: No. Any sort of surplus goes back into providing a social dividend. Over the years we have done that in various ways, but typically via donations to Foodbank Victoria.

Ms LOVELL: Just before I ask my question, Ms Crozier has just asked me to tell you that the minutes were not FOled; they were actually on the Community Chef website and were provided to the committee as part of the I Cook submission.

Ms CROZIER: That was my mistake.

Ms LOVELL: Yes. So it was just her error that she thought it was FOled. She wanted to clarify.

Mr CICCARONE: Sorry, can I make further comment on that, Chair?

The CHAIR: Yes, Mr Ciccarone.

Mr CICCARONE: We only provide our meeting minutes through a secure portal that is password protected. Those minutes would not have been in a—

Ms LOVELL: We do not know. They were provided to us as part of a submission from your website. We are just clarifying that it was not an FOI.

Just referring back to the minutes, the minutes state under item 4, which is your CEO review, we have 4.1, the CEO's overview, then we go on to 4.2, which is business development. There were some items raised by Bill Jaboor in relation to opportunities in Shepparton through the council, the local hospital and also the ethnic council's aged-care facilities. There was a Western Health status update. You advised on the commonwealth meal subsidy. It then says:

The meeting suspended at 10.10 am for Business SWOT analysis session with Michael Bourke. Meeting recommenced at 12.45 pm.

Now, the very next item when the meeting recommenced at 12.45 pm is Mr Bennie briefing the meeting on the I Cook issue. That is 12.45 pm, the very first item once the meeting recommenced. I am informed that I Cook were not named in the media until the *Age* put it up on their website at 2.00 pm, and also Professor Sutton held his press conference at 2.30. So the information that we have been given about this not being discussed as being

I Cook prior to it being named in the media seems to be incorrect. I was just wondering if you could comment on that, please.

Mr CICCARONE: As I said earlier, I am not absolutely certain of those time lines. I have a vague recollection of the sequence of events. I cannot tell you any more than that. That is all I can really offer.

Mr LIMBRICK: One question I would like to ask around the shareholding that the councils have is: what sort of financial risk do the councils have in relation to their shareholding in Community Chef? If Community Chef, for example, got into financial trouble, who would be liable for that? Would the councils be insulated from that or would they have to bail Community Chef out somehow?

Mr CICCARONE: I do not think there is one simple answer to that. I need to take that on notice and provide a full answer. However, my understanding is that councils' liability is only limited to the amount they have invested in the organisation. However, as I said, I am happy to take that on notice and provide a fuller explanation.

Mr LIMBRICK: Again with regard to the ownership structure, we have been able to see how this works, and it is a bit convoluted, but correct me if I am wrong. We have an ownership structure where we have a bunch of councils that are shareholders. One of those councils, the CEO of which was on the board of Community Chef, is also the council that is a regulator of a competitor which was shut down, and then another council, Hobsons Bay City Council, presumably is the regulator of Community Chef. Does this seem like an ideal arrangement? It seems problematic to me.

Mr CICCARONE: I do not see the problem there. I kind of answered this question a little earlier, and I cannot remember who asked it. But the reality is every local government area has food manufacturing in it, or most of them would, and many of those within the bounds of our shareholder councils, so by that logic every council that is a shareholder is conflicted. I do not believe that to be the case, but I am not a legal expert.

The CHAIR: Thank you, everyone. Thank you, Professor Raysmith and Mr Ciccarone, for making time here today. A transcript will be made available to you. Please have a look at it and let us know if there are any errors in it. We very much appreciate your time today. They are never easy processes, so thank you for your candour.

Witnesses withdrew.

WITNESSES

Professor Brett Sutton, Chief Health Officer,

Dr Angie Bone, Deputy Chief Health Officer, and

Mr Greg Stenton, Deputy Secretary, Corporate Services, Department of Health and Human Services.

The CHAIR: I declare open the Standing Committee on Legal and Social Issues public hearing and, as we have done more fulsomely at the beginning, I would certainly like to acknowledge the traditional custodians of the various lands on which we are gathering today and receiving evidence and pay my respects to elders past and present and any who are watching the proceedings today. I would also like to welcome back anyone else who is watching this inquiry via live broadcast.

This afternoon the committee is hearing evidence in relation to the Inquiry into the Closure of I Cook Foods. All evidence taken at this hearing is protected by parliamentary privilege, as provided by our *Constitution Act* but also the standing orders from the Legislative Council, therefore any information that you provide this afternoon will be protected by law. However, any comment repeated outside the hearing may not be protected. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament. As is obvious, all evidence is being recorded. You will receive a transcript in due time—it will probably be in a couple of weeks—and we would love it if you could have a look at that and make sure that we have not made any significant errors. Ultimately these will be available on the committee's website.

So, welcome. I understand you have some prepared statements and some opening remarks, so if you would like to make your opening remarks, then we will open it up to the committee for discussion. Thank you.

Prof. SUTTON: Thank you, Chair and committee members. I would like to thank you for giving me the opportunity to speak today. Before I go on, I would like to acknowledge that the closure of I Cook Foods started with a severe case of listeria infection in an 86-year-old woman that contributed significantly to her death. This inquiry must be extremely difficult for this woman's family, her friends and staff at the retirement village where she had lived, and my thoughts go to all of them. I do also want to acknowledge that 41 people lost their jobs subsequent to the closure of I Cook Foods. Losing one's livelihood is very hard for anyone, but losing a job in those circumstances compounds that further. I do acknowledge the stress and anxiety and hardship that those staff have gone through.

With regard to my role as Chief Health Officer, the *Public Health and Wellbeing Act 2008* requires that I am guided by a number of principles, one of which is the precautionary principle in my role of protecting the health of Victorians and to uphold the primacy of prevention—or, in other words, prevention of harm is better than cure once it has arisen. I acted to prevent the potential widespread transmission of Listeria infection to a vulnerable community of hospital patients, Meals on Wheels recipients and residents in aged-care facilities. If I had not closed at the time I did, there was a significant risk of many vulnerable Victorians contracting listeria. The *Public Health and Wellbeing Act* also states:

If a public health risk poses a serious threat, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or control the public health risk.

That means sometimes I am legally required to act and respond with imperfect knowledge where we might not have all the facts of a case but the potential for public health risk is nonetheless serious. In this case, with the closure of I Cook Foods, I did have abundant evidence and stood on more than sufficient grounds to act in the way I did. But my point is that sometimes I am legally obliged to act with less than that.

The closure of I Cook Foods centres around the serious health impacts of listeria. Listeriosis, or infection with listeria, is a notifiable disease under the *Public Health and Wellbeing Act*, meaning that laboratories must notify the department on diagnosis so that we can take public health action to prevent spread of infection. It is caused by eating food contaminated with a bacteria known as *Listeria monocytogenes*. Healthy people may develop few or no symptoms, but for some people with chronic illness or immune deficiency, pregnant women and newborn babies and the frail elderly, the infection can be invasive, meaning it invades the blood or brain tissue, requiring hospitalisation, and can result in death in about 30 per cent of cases where it is invasive. Listeria meningococcal meningitis, or infection of the lining and the substance of the brain, was a significant factor in the

death of this woman. It is a particularly serious illness in any individual, but for the most vulnerable—those I have listed—it can be fatal. Outbreaks of listeria due to foods are known from foods such as soft cheeses, milk, coleslaw, hot dogs, pâté, rockmelons—that has been reported in Europe, America and Australia. Outbreaks have also been reported in relation to sandwiches supplied to health services in the UK.

So safe food handling and safe storage of food are important for everyone, but especially so for those providing food to vulnerable people. Listeria bacteria, like most bacteria that cause foodborne illness, are readily killed during cooking. However, unlike most other food-contaminating bacteria, listeria can grow in the refrigerator, and that is why Listeria infection is commonly associated with ready-to-eat foods. This is why food preparation, storage and hygiene practices are crucial in preventing Listeria infection.

With regard to the role of the department and council, I would like to outline the respective roles. Local council has several roles in the regulation of food businesses, chief among them being regulator of food businesses under the *Food Act 1984*. As the regulator, councils register and inspect food businesses, review reports by food safety auditors and ensure action is taken to address issues identified in audit. When there is a possible foodborne illness, council environmental health officers, or EHOs, take food and environmental samples, guided by the department, and assess hygiene, cleaning and food safety practices. The department administers the *Food Act 1984*, approves food safety auditors, coordinates recalls of unsafe and unsuitable foods and provides advice to councils. In cases of outbreaks of foodborne illness the department conducts interviews with cases to take a food history to try and identify a common source, advises council on sampling and liaises with the laboratories. It regularly works with manufacturers of all sizes to help them identify the cause of a food safety problem and resolve it. So while there is a clear separation of roles between council and the department in the investigation and control of foodborne illness, the system is designed for close cooperation to identify and remove foodborne hazards that put the community at risk.

Under normal circumstances a closure order under section 19 of the *Food Act* would be issued by council as the regulator. On the evening of 21 February 2019 the Chief Executive Officer of the City of Greater Dandenong, Mr John Bennie, disclosed to me that he and council had a conflict of interest that prevented him from issuing the closure order. But in the interests of protecting vulnerable members of the community I therefore issued the order under the powers of the *Food Act* that have been delegated to me by the Secretary to the Department of Health and Human Services, an action permitted pursuant to section 19(9)(a) of the *Food Act*.

Just in relation to the information that I used in my decision-making to close, then vary and ultimately lift the closure order on I Cook Foods, there was a suite of information provided to me by Department of Health and Human Services and council-authorized officers. In doing so I also want to address frankly a number of falsehoods that have been presented in the media and allegations made by Mr Ian Cook at the hearing of this inquiry on 17 June 2020.

The information can be categorised into four areas: the investigation into the food eaten by the deceased patient, the laboratory evidence of the listeria isolated from food samples from I Cook Foods premises, the condition of the I Cook Foods premises and their food safety processes, and the general vulnerability of the community being served by I Cook Foods. This information was provided to me by several authorised officers over a number of days and in different formats—verbal, oral, emailed—which led me to consider that the food being prepared, sold or otherwise handled at I Cook Foods was unsafe or unsuitable. No one single piece of information was used in isolation to come to that decision. Rather, it was the collective picture of public health risk that I believed I Cook Foods' continuing food production represented.

With regard to the investigation into the food eaten by the deceased, the patient had been an inpatient at Knox Private Hospital since 13 January 2019 and was improving until she suddenly deteriorated 10 days later on 23 January. A blood culture test that day grew listeria. That was reported on 25 January to the department, when we were notified. The patient was too unwell to be interviewed. The department conducted interviews with her next of kin and the treating doctor to obtain the food history for the four weeks prior to listeriosis illness, including information on the patient's food selection whilst in hospital. These interviews revealed that whilst in hospital the patient only consumed food from the hospital, with all food provided by Knox Private Hospital's sole caterer, I Cook Foods. The patient's daughter indicated that her mother was fond of eating the sandwiches provided in hospital. The interview also revealed a range of other foods that her mother was eating prior to her admission to hospital and the locations where her mother shopped.

As a result of the information obtained, the department asked Manningham City Council and the City of Greater Dandenong to take food samples and environmental swabs for testing from multiple sources in order to cast a wide net to try and capture all the possible sources of contamination. Knox City Council undertook a food safety assessment of Knox Private Hospital, and the hospital took environmental swabs from all kitchen sites exposed to I Cook Foods products.

Manningham City Council also took food and environmental samples from Coles, Woolworths, Mirabella Bros and the Aveo Domainé retirement village itself, but no listeria was detected in any of these samples taken by Manningham Council, nor in any of the samples taken by Knox Private Hospital. The City of Greater Dandenong took food and environmental samples from I Cook Foods' premises. On 18 February 2019 food sampling testing indicated positive listeria and *Listeria monocytogenes* in food from I Cook Foods.

Thus I had good information that the patient had consumed food supplied by I Cook Foods during her incubation period—so the period from potential consumption of food until becoming unwell—and that I Cook Foods was the only premises where listeria was detected. You have a summary of all the positive and negative food and environmental samples in your pack.

Secondly, the laboratory evidence of listeria in samples from I Cook Foods: these results arrived in stages, each providing more and more detail to refine the identification of the bacteria detected. So, for listeria, first we understand the species that has grown—*Listeria monocytogenes* is the one associated with human illness—then the molecular serotype, the binary type and the multilocus sequence type or MLST, and finally the whole genome is sequenced. This test is like a DNA fingerprint. This identification is undertaken by Victoria's public health laboratory, the Microbiological Diagnostic Unit of the Doherty Institute.

The full identification of the listeria isolated from the patient's blood was received on 11 February 2019. At the time of issuing the closure order on 21 February, listeria had been detected in seven foods sampled at I Cook Food's premises. Six of these had grown *Listeria monocytogenes*, and four of these had grown a *Listeria monocytogenes* that had the same molecular serotype and the same binary type as that found in the patient. These foods were sliced cucumber, sliced silverside, egg-and-lettuce sandwiches and corned-beef-and-mustard sandwiches. It was later shown that the listeria isolated from these four foods had exactly the same genetic sequence as each other. The report also noted that the genetic sequence of the listeria from these four foods was a very close match to the strain found in the patient, and the investigation to explore the links between the patient and the foods was recommended by the laboratory. It was also later reported that two of the six original samples taken by City of Greater Dandenong at I Cook Foods had grown a *Listeria monocytogenes* with a different molecular serotype and different binary type and multilocus sequence type—that is, different strains.

Furthermore, a separate sample taken on 22 February by Whitehorse City Council of an I Cook Foods meal was later found to contain yet another molecular serotype, binary type and MLST of *Listeria monocytogenes*—another different strain. The fact that there were four separate foods with exactly matching listeria indicates cross-contamination, and the fact that this is a close match to that identified in the deceased patient provides strong evidence of a link between I Cook Foods and the patient. This was further reinforced by the knowledge that the patient had eaten food at Knox Private Hospital and that I Cook Foods was the sole food supplier. Noting that this strain of listeria with this particular genetic sequence has not been matched to any other isolates in Australia before or after this event, there is really no other plausible explanation than that the source of the patient's infection was I Cook Foods.

I have heard it suggested that the listeria was introduced by a supplier, as I Cook Foods had detected listeria in an unopened package of ham. This listeria was a different molecular serotype to that identified in the patient and so could not have been the source of her infection. But it does demonstrate that listeria can be brought into a food premises and the importance of any food premises having a plan to manage listeria, particularly one providing food to vulnerable people. I Cook Foods did not have a listeria management plan. The fact that there were three different types of *Listeria monocytogenes* identified from I Cook Foods strongly indicates that I Cook Foods was not in control of its environment with regard to listeria. There was a soup of listeria strains.

Lastly, I want to address the claim made by I Cook Foods that the listeria detected in their foods was within safe levels. The samples taken as part of this investigation were taken to determine whether listeria was present in the foods sampled and whether the listeria matched that found in the patient. So the quantity in the foods sampled does not imply that that same quantity was consumed by the patient. We were looking backwards

from a patient who had already developed invasive listeriosis, and so we were looking to see whether there was a listeria identified at any site that could match the listeria in that patient. The witness statement available in your pack from Mr Deon Mahoney, a food safety expert, provides more information on this. The samples that were taken provided results that were within a standard set in the *Australia New Zealand Food Standards Code*, or the code, for compliance purposes, but that does not necessarily imply they are safe, and the standard does not use this language. Furthermore, a business supplying food to vulnerable consumers would be expected to achieve the highest standards possible.

On the third matter, the condition of the I Cook premises and their food safety processes, there were two major cleans of I Cook Foods undertaken on the 20th and again on 21 February. Both cleans were deemed unsatisfactory by a senior manager, an environmental health officer at City of Greater Dandenong, who contacted the department's food safety team to advise of her concerns that I Cook Foods staff did not seem to understand clean-down procedures or the risks of cross-contamination.

As an illustration of the risks of food contamination that were raised, the officer reported the presence of biofilm—that is like a slime that is contaminated with bacteria, that holds bacteria of various types—on a chopping blade, which prevented cleaning chemicals from adequately reaching all surfaces, indicating that the slicing unit had not been dismantled and cleaned properly, raising the question as to whether in normal operations the blade was cleaned between foods as it should be to prevent cross-contamination from one food to the next—sliced ham and sliced lettuce or sliced cheese, for example. Ovens were situated in an external side entrance in a shared space that was also a delivery entrance, a cleaning chemical and equipment store and a waste marshalling area. There was ponding of water on the floor and broken flooring—a concern because this creates an ideal place for listeria to harbour and grow. Sandwich crates used to transport food were being washed on the bin room floor, and there was ready-to-eat food being prepared at a point where many staff passed through.

Furthermore, the City of Greater Dandenong senior environmental health officer stated that I Cook Foods staff, including the food safety supervisors, had little understanding of food safety practices and that the food safety program was inadequate for the scope and scale of production. Food safety programs support the safe production of food at commercial premises, including how food is prepared, stored and transported, to minimise food contamination. Food safety supervisors, who are employed by businesses and hold a statutory role under the *Food Act*, should have the ability and authority to supervise other people handling food at or from the premises and to do so safely. Environmental swabs after these cleans were negative, which I believe may be the basis of claims by I Cook Foods in the media that the business had been cleared of listeria. However, these one-off samples should not be so surprising to be negative on their own. They do not provide assurance that a premises is safe to operate.

Given these concerns that the fundamentals of food safety were not in place, I could not be satisfied that the risk would not arise again without significant intervention. These deficiencies were subsequently confirmed when my department authorised officers visited I Cook premises on the day after the closure order was issued to determine what specific remediations would be required before I could lift the closure order. Their observations included (a) the cross-contamination risk posed by the ponding of water and damaged flooring in several places through the premises; (b) that the kitchen sink appeared to have multiple uses, including the cleaning of equipment parts and the washing of some ingredients, such as lettuce, and that it was located near equipment used to chop and slice foods, representing an additional potential cross-contamination point for bacteria; and (c) workflow processes where raw ingredients, food in preparation and cooked food crossed each other, again posing cross-contamination risks. Photographs and explanations of some of these issues are in your packs.

The visit on 22 February led to the issue of the varied order on 23 February intended to enable I Cook Foods to restart lower risk lines: the extended-shelf-life pasteurised foods; texture-modified, pasteurised formed foods; and modified atmospheric packaging foods. The order included a number of conditions that needed to be met by I Cook Foods, including a gap audit to assist in identifying the number and range of issues with process flows and the physical fabric of the premises, a full food safety program audit, confirmation that management and staff understood revised procedures and, lastly, a test and hold program—a standard industry process where food is not released to market until the results of food samples are known and acceptable.

Both the gap audit and the food safety program audit, undertaken by independent auditors, revealed several deficiencies that required rectification before the order could be lifted. We have provided you with copies of

these audits so that you can see for yourselves their findings. This rectification unfortunately took much longer than would have been expected, as I Cook Foods management repeatedly questioned many of the food safety issues raised and the remediation that was advised. I would also note that in my experience this is not a usual response from food manufacturers where the possibility of a link with serious incidents of foodborne illness has been raised. In my experience manufacturers are more commonly very concerned to discover that they may have inadvertently caused illness, usually cease production voluntarily and are keen to work with us constructively to resolve the problem and restart production as quickly as possible.

This leads me to the last area of information that I considered in my decision-making: the particular vulnerability of I Cook Foods customers. The City of Greater Dandenong advised the department that I Cook Foods supplied 10 Melbourne hospitals, eight council Meals on Wheels programs and two aged-care facilities. I was informed that I Cook Foods prepared approximately 7000 meals per week, so it should be assumed that in all of those settings vulnerable patients, vulnerable residents, make up the vast majority, if not everyone, in those settings. This indicated to me that there was a large potential exposure to any listeria hazards associated with I Cook Foods, because in those most vulnerable the infection can be invasive, causing serious illness and death. If there were subsequent infections, further deaths were a strong possibility.

In closing, I would like to underline that I took the action that I did with the sole purpose of protecting vulnerable Victorians from the potential risk of listeria infection associated with I Cook Foods, as is my statutory duty. In coming to my decisions I had a range of evidence from authorised officers, including the food history of the patient, laboratory results indicating a link between the premises and the patient, reports that raised significant concerns about the safety of I Cook Food's premises and practices and the knowledge that the food provided from this business was going to people with a high risk of potentially fatal consequences of listeria infection. Taken together, this information left me in no doubt that production had to be stopped whilst further investigation was undertaken. As the delegate of the secretary for the purposes of section 19 it was my job to consider all these relevant factors and make a decision as to the appropriate action to be taken in this case. Recognising the impact of a closure order on a business, my team spent many weeks working with I Cook Foods to try and get them back up and running as quickly as possible. It is very unfortunate that I Cook Foods had such difficulty in understanding and achieving the standards that were acceptable to protect the health of the vulnerable people they served so that reopening could occur. In my view the time taken to resume full operations was really due to the lack of sufficient compliance and responsiveness of I Cook Foods.

Mr STENTON: Over to me.

The CHAIR: Over to you.

Mr STENTON: Apologies, Chair, I did not bring copies of my opening remarks, but I am happy to leave these for copying and we can provide copies.

The CHAIR: That is fine, Mr Stenton.

Mr STENTON: My name is Greg Stenton. I am the Deputy Secretary of Corporate Services at the Department of Health and Human Services and have been in this role since January 2019. Prior to this I was the chief finance officer with the Department of Health and Human Services and its predecessor, the Department of Health, from December 2012 to December 2018.

Relevant to the deliberations of this committee, I have previously held positions of manager, financial operations, and director, planning and resources, in the rural health and aged-care division from October 2004 to December 2009. This was the period in which consideration was taken by government to support the establishment of Community Chef through payment of a capital grant in 2008. Now, the underlying policy objective of this decision at the time was to ensure the continuity of food provision to vulnerable people under the home and community care and disability programs, primarily through the Meals on Wheels program. The grant supported purchase of equipment to enable the aggregation of a number of smaller local government food services to a larger, more contemporary shared service.

I have been asked to appear before this committee to give evidence regarding the department's financial relationship with Community Chef, including any plans to acquire shares in Community Chef. Before I commence I would like to take the opportunity to say that the public expectations of honesty and integrity for public officials are rightfully higher than those expected of most citizens. The senior leadership of the

department takes these responsibilities extremely seriously and has structures and processes in place to ensure ongoing compliance with the Victorian public service code of conduct. The department maintains high standards of integrity and behaviours, which are a credit to the professionalism and hard work of our staff. The Chief Health Officer's decision to close I Cook is not related in any way to a financial interest between the department and Community Chef. The department's organisation and governance structures are specifically designed to avoid potential conflict between the Chief Health Officer's regulatory roles on public health matters and the department's financial and funding decisions on policy matters.

I will talk a little bit about the department's governance. The Department of Health and Human Services is a large and complex department which administers policy development, funding, regulation and advice across a range of ministerial portfolios, including public health, health service delivery, disability, aged care, housing, children and family services, and family violence. The department's organisation structure separates briefing and advisory functions between policy divisions to support individual portfolio ministers as well as to separate regulatory activities and corporate-enabling functions from policy and service delivery functions. The separation is partly for administrative efficiency but mainly to separate the tensions between the multiple functions of the department as system manager, policy adviser, funder, performance manager and regulator. Each division is led by a deputy secretary accountable to the secretary for the functions within the division. Deputy secretaries are delegated to brief ministers independently on operational matters and via the secretary on policy matters.

The Chief Health Officer function is administered through the regulation, health protection and emergency management division, which is responsible for advancing public health through identification of risk and the use of social regulation to influence behaviours. Notification processes for infectious conditions, including decisions and advice from the Chief Health Officer, are managed by this division. The health and wellbeing division leads policy, strategy, workforce funding and performance of Victorian hospitals and healthcare system, amongst other policy and funding functions for prevention and population health and mental health and aged care.

This division, in conjunction with Corporate Services, has been responsible for providing policy advice on financial support for service continuity for vulnerable people and, more recently, potential acquisition of Community Chef to support business continuity and capacity in public hospitals. Based upon my experience in the department, I do not consider there are any circumstances where the advice to close I Cook for breaches of public health would have intersected with any decisions relating to financial support for Community Chef. As mentioned, the financial relationship between the department and Community Chef dates back to 2008, to the inception of the shared service through the payment of an establishment grant. The grant was conditional upon as repayable by Community Chef on the occurrence of any default event. The commonwealth government also provided establishment funding at the time, as part of shared responsibilities under the home and community care agreement.

In 2011–12 and 2012–13 the department provided funding to Community Chef to support service continuity of food provision to vulnerable people through the home and community care and disability programs. The business model for Community Chef as a shared service provider was evolving during this period, and they were experiencing higher than expected start-up costs and lower than projected revenues. Initially payments were made as a cash grant, with further payments made as recallable grants. As part of the grant agreement the department commenced a process to monitor financial performance on a monthly basis. Similarly, in 2014–15 Community Chef again approached the department seeking financial support to ensure service continuity for the provision of meals for vulnerable people in the community. An additional recallable grant facility was put in place, with payments made in 2014–15 and 2015–16.

It is worth noting that the arrangement to support the operations of Community Chef, who were delivering approximately 12 800 meals to vulnerable people, was considered in the context of the home and community care program transferring back to the commonwealth, to the administered home support program with the commonwealth, which commenced on 1 July through to 30 June 2018. Similarly, the transition of vulnerable clients to the disability insurance scheme began in 2015 in Victoria and is due for completion in June 2020. Both these events impact significantly on the food provision landscape in these sectors.

Current policy for provision of food for health services is administered by Health Purchasing Victoria and requires health services to obtain food services from central production kitchens owned and operated within

three health services, unless specifically exempted. Exemptions from this policy can be made. However, any exemption requires health services to tender for services in an open market.

In February 2018, as part of an internal review of the metropolitan Melbourne food services strategy, the department identified a significant business continuity and infrastructure risk with a small number of our central production kitchens. In considering options for mitigating this risk, the department has explored the option of leveraging the capacity of Community Chef facilities, specifically for the provision of food services to metropolitan hospitals. Given the level of funds provided to Community Chef in the form of recallable grants, independent advice was sought, which recommended that DHHS seek to acquire 100 per cent of Community Chef's shares from existing council shareholders to mitigate continuity risk at Western Health and improve service capacity across metropolitan health services. In-principle agreement was reached with councils, and contract details for the transfer of ownership to Western Health are currently being finalised. Western Health are a separate financial entity within the department's portfolio, with an independent board and independent governance arrangements.

At no time during the advice and decision-making of provision of financial support to Community Chef was there any consideration of I Cook as an entity. The advice and decisions were purely based on the need to maintain service continuity to vulnerable people in our community during a significant period of change and more recently changes in funding arrangements. Similarly, more recent decisions to seek to acquire Community Chef for the provision of health services food were taken in the context of business continuity risk and the system capacity at western central production kitchen and in consideration of recallable grants previously paid to Community Chef and, again, did not consider I Cook as an entity. Thank you.

The CHAIR: Thank you both, Mr Stenton and Professor Sutton. We will now move to discussion and questions from the committee. I have been given a note that we have about 7 minutes each on average, but given that Ms Maxwell is not here, I will try and work out a way to divide that 7 minutes amongst the remaining nine of us.

Dr KIEU: Thank you for appearing here today, given your very busy schedule. We very much appreciate your appearance, Professor Sutton. My apologies for being late; there was something urgent. But I got your opening remarks, so that is good. There are many questions that I am sure our members will be asking. Given the time, I only want to home in on a few things. First, the whole thing was triggered by the death of a lady who was 86 years old. Has it been confirmed or established that the death was caused by listeria? Secondly, from your opening statement, on the department's dealings with I Cook—there has been some delay due to, according to the statement, the response or collaboration or lack thereof from I Cook. Could you elaborate on that a little bit further? And thirdly, we have heard many different and also contradictory remarks and submissions, so one of the things I would like to find out and understand more is that according to I Cook's representation last week, the contamination sources were actually from the smallgoods. Has it been confirmed if it is or if it is not? Is there an investigation going on at the moment into that source, according to the submission by I Cook? I will stop there, and then if we have time, I will come back.

Prof. SUTTON: No problem. Regarding the cause of death, the death certificate listed pulmonary oedema, so fluid on the lungs, as the immediate cause of death; and ischaemic heart disease, or narrowing of the arteries around the heart, as a contributing factor. It was obviously recorded 'listeria meningoenephalitis', so infection of the lining of the brain and the substance of the brain as an additional diagnosis. As I say, up to one in three people with that serious an illness will die from invasive listeria infection. The relative contribution of it, I cannot say, but I know that it is a very significant invasive illness. I also know that the woman in question, as a patient, was comatose and was having seizures, and seizures are well known to cause a pulmonary oedema called neurogenic pulmonary oedema. So the fluid on her lungs may well have been a consequence of her meningoenephalitis from listeria.

On the issue of the smallgoods, it was a different genetic fingerprint, so it was a different type. It was investigated by PrimeSafe, as the regulator of that supplier, so it was not the cause of this woman's illness. But it was an indication that any food premises might receive contaminated goods, any primary producer might have listeria contaminate that primary production site. PrimeSafe, as I understand, looked at it, understood that this particular primary production facility had a listeria management plan, did subsequent sampling that they were satisfied with and were overall satisfied with the way that they were managing the risk of listeria. We were not involved in decisions for its ongoing operation or otherwise.

And the—

Dr BONE: Delayed response.

Prof. SUTTON: delayed response—can you address that?

Dr BONE: Yes. Hello, committee, Madam Chair.

Prof. SUTTON: Dr Bone is Deputy Chief Health Officer on the environment side, overseeing a number of teams, including the food safety unit.

Dr BONE: So my team worked very closely with I Cook Foods from before the closure order and then going forward. The sorts of things that I was hearing from them about challenges in I Cook understanding what needed to be done surrounded particularly the training, the changes to the food safety program, their understanding of what was required in the varied order. So first of all, a gap audit was required, which was to identify gaps, and the intention of the full food safety program audit afterwards was to show that those gaps had been resolved. But unfortunately I Cook Foods treated these rather as a sort of tick box—‘I have a list of things I have to get through’—so that the second audit was done before the gaps had been resolved, which also delayed things. I also remember being told that they had done some patching to the floor but they had not understood that the entire floor needed to be redone because of all of the risks related to the ponding of the water. That is what I remember being one of the major issues.

The last issue I would say is that there was a lack of understanding that the varied order was only intended to allow them to reopen the lower risk lines, but they had not understood that from the order and from all of the conversations we had had with them. So I believe there was a meeting where it became clear to them that they were not able to restart the production of sandwiches on the basis of completing the things needed in the varied order.

The CHAIR: Thank you, and thank you for the presentations. That was very thorough. I am just looking at the time line of the series of events. Certainly we were informed by Dandenong council that they attended on 1 February to take some samples that later were found to contain the listeria. Then it was not until, it would appear, 18 February that any concerns over the production processes, over the equipment or anything were found. Given that we had a death on 4 February, can you explain why there was such a lag in the time line?

Dr BONE: Would you like me to take that?

Prof. SUTTON: Sure; I can add to it.

Dr BONE: Yes, certainly. So we were notified on 25 January of the case of listeria, and then that prompted an investigation. So we were following up a large number of different potential leads—so not only investigating I Cook Foods but also all of the food that the patient had eaten, that we understood they had eaten, and their suppliers. So the swabs were taken on 1 February. We did not get those positive results back until 18 February. So I think from listening to the statements from MDU earlier on, I think they gave an explanation of the process that the laboratories have to go through. Because at that time we did not know that the lady had died and we did not know that there were particular issues at I Cook Foods the samples were just put through routinely.

The CHAIR: We understand that the woman died on 4 February but your office was not informed of that.

Prof. SUTTON: There is a statutory obligation to notify notifiable diseases, including listeria, so that will come from either the laboratory or the medical practitioner. There is no obligation to notify of a death, even if it is suspected to be of an infectious disease, only of the disease itself.

The CHAIR: According to our time line and certainly looking at the facts, the dates, on the MDU reports, they were finalised on 11 February, sent to your department on the 12th or sent to Dandenong on the 12th. Then it seems a week later, on 18 February, there was another visit. Then we found the significant problems. It seems surprising that none of this was picked up either in the two and a half weeks from 1 February or in the years leading up to this. I am wondering how this was not picked up, because it was so significant that it forced the closure of a large corporation.

Prof. SUTTON: I guess the notification and the detection of those samples in foods was the prompt to investigate the setting where those positive samples were identified. With respect to all the months or years prior, it is really for the City of Greater Dandenong council to speak to what they looked into, what they identified over that period of time.

The CHAIR: I have got a couple more questions, but I will let Ms Crozier.

Ms CROZIER: Yes, thank you very much. Thank you all very much. I know that you are terribly busy, so we do appreciate your time. Dr Bone, can I just get some clarity—you said your team worked with I Cook before closure, was that right?

Dr BONE: That was misspoken, actually. They did not work with them before closure; they worked with the City of Greater Dandenong. It was only after the closure that they had that, so thank you for clarifying.

Ms CROZIER: Did you get reports from the city of Dandenong on a regular basis?

Dr BONE: From the 18th, when we had the positive samples from I Cook Foods, I did not get them directly but my team did, and they were coming to me with the information during that week as they were discovering more and more information.

Ms CROZIER: What sort of information was that? The sample testing and various bits of evidence?

Dr BONE: Yes, so the results of all of the sample testing that we were getting back plus all of the reports that we were getting from the City of Greater Dandenong about their concerns about the condition of the premises and also the food safety processes and training of the food safety supervisors.

Ms CROZIER: Thank you, I am just whizzing through because of time. Just in relation to the sample testing from Box Hill, from reports I recall it was taken from a dumpster. There were different bits of food in a dumpster that was taken as sample, and that was a part of the evidence or part of the sampling process. Can you comment on that?

Dr BONE: It is not my understanding that any of the samples came out of a dumpster. I know that was in the media, but that is not what I have been informed about. What I was told was that the positive sample came from an I Cook Foods order that had been delivered as part of Meals on Wheels—delivered on 21 February and sampled on 22 February and found to be positive with a different type of listeria on 4 March. That is particularly concerning because that was a food that had already been cooked and therefore should have no listeria in it.

Ms CROZIER: Who told you?

Dr BONE: Who told me? Whitehorse City Council told us through my food safety team.

Ms CROZIER: If I can move to Mr Stenton, please. In relation to the financial position of Community Chef, you talked about an independent report. Was that the Pitcher Partners audit that was undertaken in 2017 or 2018?

Mr STENTON: There were a series of reports that we had commissioned. Those specifically around the acquisition, you mean?

Ms CROZIER: Yes, and the financial position of Community Chef. I am very keen to understand because all papers show that they were in financial difficulty, and we know that various grants were given by state, federal and local government. I want to understand the full amount of money that has been provided to Community Chef. We could not get that through the evidence this afternoon, and I am wondering if the department could provide that. Additionally, in terms of that financial situation that they were in, were they sustainable? Could they be sustainable without ongoing financial assistance from the government?

Mr STENTON: Yes, so it was part of my opening remarks: we were providing funding to support the delivery of meals, so they came to the department with cash flow issues and some financial sustainability concerns.

Ms CROZIER: They had gone to the banks too, hadn't they?

Mr STENTON: They had taken a loan from a bank.

Ms CROZIER: How much was that?

Mr STENTON: I do not recall.

Ms CROZIER: Could you find out? Could you provide that? Take it on notice?

Mr STENTON: That would be part of their financial statements. What I was going to say is their financial position was signed off annually by the Auditor-General as being a going concern, so we had no other assessment of that. The reason we started looking at doing financial monitoring is that, from a food provision point of view, we did not want them to get into a position where they could not trade, because we had a whole group of vulnerable people who needed those services.

Ms CROZIER: How much did the department pay, or how much was Community Chef paid? How much were they bought for by the government last week in terms of the negotiation from Western Health? How much did Western Health pay, or the government pay, for Community Chef, is what I am trying to say.

Mr STENTON: Again, I think I said in my remarks, the final details of the contract arrangements are being worked through as we speak.

Ms CROZIER: When will they be known? When will they be finalised?

Mr STENTON: Like all negotiations and contract arrangements, when they are finalised.

Ms CROZIER: So the reports of being paid for a dollar per council or a peppercorn amount?

Mr STENTON: A peppercorn amount is probably the right expression for the share transfer. Obviously there are the financial position of Community Chef and the existing contract, so they are the things that need to be—

Ms CROZIER: The reason I am asking that is obviously a major competitor has gone out of business—been closed down—and that this organisation has been continually propped up by government over a very long period of time. If you are monitoring them, as you said in your statement, on a monthly basis, it indicates that their financial sustainability was questionable.

Mr STENTON: Yes. Our monitoring was more to ensure that they were doing all they could to keep their costs in train because we were providing them with financial support, which was secured by funding agreements.

Just on a couple of points you have made—a competitor organisation—in our consideration for acquiring Community Chef for hospital provision, there is no competitor issue there. Hospitals are required to procure their food from a central production kitchen. As I said, we have got some continuity risk in some of those kitchens; they are getting old and a bit tired. We had already put some funding support into Community Chef, and the advice back from consultants was, 'You've got some interest here. You could use that facility for this purpose'.

Ms CROZIER: Thank you. My time has run out, but one last question: could you provide the Pitcher Partners report that was given to the department?

Mr STENTON: I will take that on advice.

Ms CROZIER: We would very much appreciate it.

Ms VAGHELA: My question is to Professor Sutton. How often do your department make the decision to give a closure order?

Prof. SUTTON: It is really quite unusual. Normally a closure of a food premises would come from the CEO of council. That would be a normal practice. If the food premises is within the council responsibility, then the

CEO is empowered under the *Food Act 1984* to be able to make that closure. This was an unusual circumstance when the CEO stated his inability or conflict of interest in being able to do so. I am empowered under the *Food Act* to do it, but it is an exceptionally unusual circumstance to be found in.

Ms VAGHELA: You said that it is a requirement for wherever the listeria is found to report to your department. Do you hear of those reportings? How common is it to hear of listeria reportings?

Dr BONE: Because that was a conversation this morning, I have looked that up especially. We have between eight and 35 human cases of listeria per year. We started a surveillance program for listeria in food in 2016 where we take under section 32 of the *Food Act* about 10 000 food samples a year. Over those four years we have had 175 notifications of listeria in food.

Ms VAGHELA: In this instance in the submission it says that I Cook Foods did not have a listeria management plan. Is it unusual for businesses not to have a listeria management plan?

Dr BONE: Yes. I would say certainly a business supplying food to vulnerable people absolutely must have a listeria management plan

Ms VAGHELA: So where have things gone wrong? Is it from the I Cook business side or an authority like Dandenong council who is overseeing whether the food safety programs are being done properly by the businesses? Why do you think this has happened? Why did they not have a listeria management plan?

Prof. SUTTON: I would say it is a collective responsibility. Clearly the business needs to have a listeria management plan when it is providing, especially at scale, food to vulnerable Victorians. But council does have a responsibility in oversighting and in the audit processes it should bear that in mind in terms of the complexity of the operation, the scale of the operation and again the vulnerability of the people that it is serving.

Ms VAGHELA: Also in the submission it says the personnel at I Cook Foods did not have proper understanding of food safety. Does that surprise you?

Prof. SUTTON: Look, I think we come across it in food businesses not infrequently. A lot of the time there is rectification through training and on-the-spot education and awareness raising, but there seem to be more substantive issues of failure to understand with respect to listeria especially. Again with a large at-scale operation there are some complexities with management of listeria that is different to other organisms, so it does require a higher bar to understand, but it is an absolutely necessary one in those circumstances.

Ms VAGHELA: So the other question is following on from what Ms Patten said. In one of the reports, once the officer visited the site they found quite a few non-conformances or issues which were non-compliant. What I am trying to understand is: was this an ongoing issue or was it that all of a sudden these problems started? If there were ongoing issues, if there was history—whether there were two, three, four, five years—why were they not captured? Is it because the business did not understand what the food safety processes were—whether there was lack of training—or has the council failed to do their job in terms of overseeing if they have gone in the past? This time the death of this woman has triggered this and someone has gone and done the check. But how do we know that, with the findings which have come out now, if those checks were done, would they have come up three years ago or two years ago? So that is what I am trying to understand.

Prof. SUTTON: We have not been involved as a department in the previous inspections that have been done by council. But I would say that some of the findings that were apparent when we were part of the investigation following this event would have been deficiencies that had been longstanding. Some of them were structural, many of them were process and some of them related to training and understanding. There can be ebbs and flows in some of those aspects, but a number of them seem to be deep-seated issues. I think, in some respects, council needs to take responsibility for having failed to identify how substantive those issues were and to have rectified them up to this point in time.

The issue with listeria is that if it is not introduced into your food premises for a number of years, or if it is introduced at very low levels and by good fortune or chance does not become embedded and established within the environment of the kitchen or a food premises, then you will not see it manifest. But looking at what has happened here, it was clear that listeria could be sustained in that environment, and the issue of cross-contamination is either one of a failure to work through the appropriate flows—where there is separation of raw

and cooked food, where there is dirty and clean equipment—and the way that things are washed and the way the things move around through that setting. It may well be that you can dodge a bullet for a number of months because listeria has not been introduced at a level that allows it to become established. But these critical events obviously put the microscope on these settings, and they can be found wanting, obviously, once it is clear that the circumstances allow it to become established.

Ms VAGHELA: So you have emphasised a lot in terms of public health issues. It just makes me wonder how many businesses are out there probably not having proper understanding of food safety protocols, and maybe the councils are not following up the role that they have to play. I wonder how many businesses are out there where it is still happening, and we do not know.

Prof. SUTTON: Look, I guess it is an ongoing challenge. There are literally millions of retail food meals produced and delivered every day. It is not enough to be 99.9 per cent safe, you have to be 99.999 per cent safe at least, because you will have cases of food poisoning or foodborne outbreaks unless you have really rigorous oversight from a regulatory and compliance point of view. Angie, you might want to say—

Dr BONE: Yes, if I may add just one or two sentences to that. I think those are valid concerns, and it is something that we are very aware of. Our role in the department is really to try to ensure consistent administration of the Act, and we are trying very hard to get consistency and to raise the level of knowledge and understanding and ability of council environmental health officers. So we have recently had some money from Treasury, which is a sort of regulatory reform program that is partly to support small businesses but it is also to ensure that councils have as consistent and as high-quality compliance and enforcement and regulation as possible around food premises.

Ms LOVELL: Professor Sutton, your media conference, I am told, on the day of 22 February was at about 2.30 pm in the afternoon. At what time during the day did you actually make the I Cook name public? Was it made public at that event, or did you name it earlier in other media?

Prof. SUTTON: No, by me it was made at that time for the first time.

Ms LOVELL: Was that the first time it would have been released by the department?

Prof. SUTTON: As a media statement, I think it was—

Dr BONE: Yes, as a media statement, I can answer that. But it was a condition of the order that the order had to be displayed when it was put on the door.

Ms LOVELL: Where would that be displayed?

Prof. SUTTON: On the premises.

Dr BONE: On the premises, yes, at 4.00 am.

Ms LOVELL: On the premises? So someone had to actually go to I Cook to look at that to know that it was them.

Dr BONE: Yes.

Prof. SUTTON: Yes, but we had also written to all of the vulnerable clients in order to inform them that they needed not to eat the food that had been delivered and to dispose of it.

Ms LOVELL: So what time would that have been done?

Prof. SUTTON: That would have been done on the day of the closure. I think it was.

Dr BONE: So it was the evening of the 21st when all of the decisions were being made. There were some letters that were sent out to all of the Meals on Wheels and the private hospitals and the councils—

Ms LOVELL: To the customers of—

Dr BONE: Yes, exactly—to warn them what to do.

Ms LOVELL: Thank you very much. Given council's really specific role in the enforcement and inspection of food safety, do you think it was responsible for the CEO to actually take on a position on a board of a food company that put him in this position that he could not make that order, which is one of his substantive roles?

Prof. SUTTON: Look, I think it became problematic in terms of the closure on that night. It led to delays in that coming into effect, and it took some efforts for my department to contact him, my team to contact council, and to make him available to even have the conversation. So I think it was problematic in that regard.

On the issue of the conflict within council, having a part share and also being potentially responsible for a closure, I guess that is a question for the department at large and the minister as to whether the *Food Act* needs amendment.

Ms LOVELL: But that is a separate thing to safety and—

Prof. SUTTON: Yes, that is right.

Ms LOVELL: And perhaps it is something to be considered that those who are involved in that inspection and enforcement should not be involved in also the administration of a food company.

Prof. SUTTON: I think that is a fair point, yes.

Ms LOVELL: Okay. Did you check any of the reports that were supplied to you by the City of Greater Dandenong?

Prof. SUTTON: Reports in what regard?

Ms LOVELL: So reports that were prepared by Leanne Johnson and Elizabeth Garlick that led to the decision to make the closure—were they checked in any way before the decisions were made or were they just taken at face value?

Prof. SUTTON: Well, they were certainly taken as reports to the department and in a number of conversations with those environmental health officers. There was a day of the closure when DHHS authorised officers from the food safety unit also went out. If they had found those reports to be manifestly wrong or inadequate, then I would have lifted the closure order then and there. So there was an immediate, if you like, checking of the claims or the statements that EHOs from council had made.

Ms LOVELL: Thank you very much. Also, I asked this question this morning of the City of Greater Dandenong. Obviously there were several ingredients that were found to have listeria on them, and there is no way of really knowing whether that was a cross-contamination within the packaging of the sandwich et cetera. I asked them did they actually make any inquiries of the suppliers of I Cook Foods to see if that listeria had been imported on, say, the deli meat or something like that. They said that was not their role, that their only role was to investigate into I Cook and that they supplied the names of the suppliers to the department and that it would be the department's role to see if the primary source came from somewhere else. Was that checked? For instance, deli meats are made by several different companies and it could be quite problematic to the state if it was one of the major suppliers that is in every deli in Coles et cetera. So was that further checked, where the primary source of it might have been?

Prof. SUTTON: Yes, I think I addressed that with Dr Kieu in relation to PrimeSafe having regulatory oversight. So when the specific contaminated ham was identified there was a primary producer, and it is PrimeSafe's regulatory role to look into that. I think they were able to identify that it was a specific primary producer who supplied that rather than it being a more widespread issue because it was identifiable as coming from there.

Ms LOVELL: But was that primary producer investigated to see if there was any listeria in their factory—

Prof. SUTTON: Yes.

Ms LOVELL: and was there any found in any of those suppliers?

Prof. SUTTON: I do not believe so. We are not PrimeSafe, obviously, but I do not believe that they identified, in subsequent sampling at that site, listeria. But I would take it, again, on face value that it would have been there in some form in some sample at some time.

Dr BONE: May I add something as well? Just to say: as part of this surveillance that I was talking about both of food and human samples, because of this situation we were scanning very carefully all of the information that was coming in to see if there were any other cases that could be linked that perhaps would suggest that it was the supplier, as you were saying, supplying someone like Coles, in which case it would be much more widespread, and there was not any.

Ms LOVELL: Yes—it would be a problem if it was there for everyone's Christmas ham.

Dr BONE: You've got it.

Ms LOVELL: Absolutely. The other thing I was just interested to know is: is it common for slugs to be found in summer?

Prof. SUTTON: I have no idea.

Ms LOVELL: No-one has been able to tell us that one.

Prof. SUTTON: I should add that I did not know about any slug at the time that I made the decision for closure, and it obviously formed no part of my determinations around I Cook.

Dr BONE: We only heard about the slug from the media reports.

Ms SHING: I hope that everyone can hear me. Thank you for your evidence. I would like to, Professor Sutton, put something to you in relation to the biofilm issue and the question of deep cleans. We heard evidence from Mr Cook last week that a deep clean was undertaken every day at I Cook Foods, and we have heard evidence around biofilm on a knife blade surface and chopping board. Would a deep clean, to the extent that I understand it to be, rather than a forensic clean, have removed any biofilm, had it been undertaken on a daily basis?

Prof. SUTTON: I guess 'deep clean' is a bit of a lay term.

Ms SHING: This is one of the things I am grappling with.

Prof. SUTTON: For the purposes of making food production safe, equipment needs a clean that would remove a biofilm, so by definition an adequate clean needs to remove that biofilm. So by definition, finding it means that there was not a sufficiently adequate clean that would reduce the risk of cross-contamination from listeria or indeed other bacteria like salmonella.

Ms SHING: So you would refute the evidence given by Mr Cook that a deep clean, to the extent that it would remove that risk, had taken place before the presence of biofilm was discovered?

Prof. SUTTON: Correct.

Ms SHING: You have also referred to a soup of listeria strains, and we have heard evidence around the ponding or pooling of water, the co-location of food preparation in entrance and exit areas through which staff passed on a regular basis, and the personnel door which was used frequently to move inside and outside the premises. How do we work with an environment where people are responsible for preparing food for vulnerable cohorts on the one hand whilst dealing with static food preparation areas which have been in place for a number of years? We have heard evidence in relation to the council and the work that it did to undertake an understanding of the risks that were present in that workplace, the issues of pooling and the issues of moisture and droplets potentially moving from the dishwasher area and sinks through to the food preparation area. How is this able to be improved in a continuous improvement setting if a building is set up in a way where those areas and workstations are proximate? Can that risk be managed in an acceptable way?

Prof. SUTTON: Sometimes not, if there are intrinsic structural issues that make it impossible to have the appropriate linear flow from lower risk to higher risk areas through a food production premises. But sometimes

yes; sometimes it needs a thorough review of the food safety program and a listeria management program that defines exactly the entrances and exits, the location of all of the processes within that premises in order to manage that risk of cross-contamination and the introduction of dirty-into-clean areas or the introduction of lower-risk-into-higher-risk areas of contamination. But Dr Bone might have something more as well.

Dr BONE: No, I thought that was quite a good explanation. I would say you can never totally reduce the risk to zero but there is a lot that you can do to reduce that risk, and that is why eventually Brett was able to lift the order, because you felt satisfied that enough had been done to reduce the risk significantly.

Ms SHING: I would like to also touch on a history of complaints which had existed in relation to I Cook Foods—not according to the evidence given by Mr Cook last week but in relation to evidence from Ms Johnson at the council of the City of Greater Dandenong—and the issues around ongoing requests for them to change their practices and to change what they did. When should it be, in your opinion, time for a council to escalate a series of significant concerns to the department where, but for happenstance, there may well be an outbreak of listeria or you may well creep above that magic 100 cfu number which is set out in the guidelines, the standards or the regulations? How should that be managed in a process? Because you have talked, particularly Professor Sutton, about the potential issue in a conflict of interest and how councils should manage that in response to a question from Ms Lovell. We have 17 councils though who are shareholders so, you know, what should be done in your collective view to make sure that risk can be managed, that practices can be improved in a continuous fashion and compliance encouraged and enforced wherever necessary but that you have got appropriate mechanisms between councils and governments in that situation where a conflict might arise?

Prof. SUTTON: Yes, I guess Dr Bone has addressed the specific role of the department in terms of getting consistency of application of the *Food Act* across councils and ensuring that expert guidance is provided for their regulatory function, but it is ultimately council's regulatory role to manage that. I think they have powers that are very substantial in terms of things that are not addressed, so if it gets above a threshold that makes them not satisfied that a premises can continue to operate, then they can close that premises or they can provide improvement orders or whatever requirements they feel are needed in order to mitigate that risk sufficiently that a premises can continue to operate. But I think the point about when we hear about it is an important one. It is a bit unclear to me exactly how it can be managed if a council is not taking appropriate action if we do not have line of sight of that council's response to issues that it identifies.

Dr BONE: May I add something?

Ms SHING: Yes, absolutely.

Dr BONE: So everybody has a critical role in this—the manufacturer, the council, the auditor, the department—and I think one thing we have not mentioned is the role of the auditor. So in a class 1 and many class 2 premises an independent audit is needed, and the department authorises those auditors. So the auditor is also an absolutely crucial part of identifying problems and then rectifying them. Council should review each audit report, and we have now put in a process called 'audit the auditor' that has been in place for the last two years to make sure that we are also looking at examining every audit that is done in a period of time by all of our auditors so that we can identify problems, and then we have a sort of performance management escalation of where we are seeing problems now because we understand how critical that role is.

Ms SHING: Thank you very much.

Dr BACH: Thank you all for being here. Obviously we are taking this inquiry really seriously and I know you are too, notwithstanding the fact that you have other very important work to be doing right now. Can I go, Dr Bone, to the issue of exactly what information you were provided by Dandenong council. I am looking at page 9 of the document that you, Professor Sutton, very kindly gave us at the start of your evidence today, and you refer to the fact—at the top of page 9—that after major cleans of I Cook premises on the 20th and 21st, then staff at Dandenong council started to engage with you to inform you about what they had found. So I take it that the senior environmental health officer at the City of Greater Dandenong is Ms Garlick, isn't it?

Dr BONE: That is actually Ms Johnson.

Dr BACH: That is Ms Johnson?

Dr BONE: Yes, Leanne Johnson.

Dr BACH: Okay, thank you so much. So in particular it was Ms Johnson liaising with members of your team?

Dr BONE: Exactly.

Dr BACH: That is great. So would you mind just talking us through in particular the format that that information came in? I am sorry to sound like a pedant, but I tried to get this information out of the council earlier today and did not get very far.

Dr BONE: Of course, yes. It was a series of telephone calls and emails between various authorised officers in the department and Ms Johnson.

Dr BACH: Okay. Thank you very much. And then I might ask you this question, Professor Sutton, perhaps. You noted that obviously you had the information from the City of Greater Dandenong and that played a significant part in ultimately the decision that was made, and then subsequent to that, very soon after that decision was made, staff from the Department of Health and Human Services also went out to I Cook Foods—and here I am looking at page 10; you have given us a bit of a precis, if you like, of exactly what they found. But it is interesting to me that, if I am reading this correctly, only one of the substantive issues that the council raised with your team, Dr Bone, was then raised again in the Department of Health and Human Services report. I may be wrong, but the only substantive issue that I can find that is common across all your reports is the issue of the ponding of water. Am I getting that right, and did it strike you or members of your team as at all odd that there was such a discrepancy between the two reports?

Dr BONE: I think it is worth bearing in mind that these are just summaries of the reports, so they are not complete reports at all. So this was my summary of the information, and what I was trying to demonstrate here was the breadth of issues rather than any consistency between the two of them, but the ponding of water was such a critical thing that I felt it was important to emphasise that.

Prof. SUTTON: And there were a number of common elements that were found by both council environmental health officers and departmental authorised officers in their full estimations.

Dr BACH: Thank you for that clarification from you both. I wonder, is it possible to get the full copy of the departmental report?

Prof. SUTTON: I will take it on advisement.

Dr BONE: We can certainly provide you with a copy of the visit that the department officers made on 22 February. There is a report there.

Dr BACH: But this information here on page 10, that is a precis—a summary—of a report.

Prof. SUTTON: Multiple reports back from various visits from various officers.

Dr BACH: So there is not a report.

Dr BONE: No, there is no one report, and I think that is something that people keep looking for and asking for: ‘Is there one standalone bound report?’. The reality is in something that is very, very fast moving, as this was, and urgent, it is a number of different reports that are taken collectively, and the *Food Act* does not specify how that report needs to be given. Bearing in mind it was 1984, it probably would not have mentioned email, for example, so that is the summary answer.

Dr BACH: Again thank you for clarifying that, but again I would note that, as you said, Professor Sutton, you would take it on advisement as to whether or not you can provide those reports, but if we could have those reports, that would be very useful for us as a committee.

Professor Sutton can I take you to the day, then, that you made this decision. You noted before that you and your team had made some effort to get in touch with the CEO of Dandenong council. Would you mind talking me through exactly how that happened? I am concerned that, as you say, there was your team seeking to get in

touch with senior officials at the City of Greater Dandenong, and obviously the health risks that we are talking about here are very, very serious indeed. My understanding from your testimony thus far, Professor Sutton, is that there was a delay that was, well, far less than ideal, to put it mildly.

Prof. SUTTON: It did take some hours. They were not my personal efforts in picking up the phone, but there were a number of senior medical folk who were trying to contact council. They got some messages through. They got messages back that council were in a meeting and would not come out or could not come out and would be available at a certain point in the evening. It was, I think, approximately 9.30 pm from home when I managed to speak to John, but it took some time. I think we were only reassured by the fact that we knew that I Cook had ceased production for the day and would not recommence until approximately 4.00 am the following day. So we really had overnight, if you like, to ensure that our closure order was completed and able to be served. It was close to midnight, I think, when it was walked out and provided to the factory.

Dr BACH: That is fine. Thank you. I appreciate that, that is right, you have teams working for you, so it would not necessarily be you personally, Professor Sutton, picking up the phone, but nonetheless it was made very plain to the City of Greater Dandenong that this was a very serious priority, and yet you were told, well, you know, there was a meeting.

Prof. SUTTON: Yes.

Dr BACH: All right. Fine. Thank you. Dr Bone, I was just going to come back to you on the matter of exactly when the department was informed of the death of this poor lady. I only sort of half understood what you and Professor Sutton were saying earlier about the fact that, given the circumstances surrounding her death, it was not necessarily an imperative—or a statutory imperative, let us say—for the department to be notified. Would you mind talking to us a little bit more about that? Still, wouldn't it have been optimal, wouldn't it have been better, for you to have been notified far earlier of her death?

Dr BONE: The actual fact of her death actually was no part in the decision-making around the closure and the investigation here. It was very unfortunate, but if she had got listeria and survived, it would not have made any difference to our investigation. So I think that is the first thing to say on the outcome of that. I was informed of her death on the 18th, because I was told about the case in the morning and I asked specifically, 'Can you find out how the lady is?'. Because that was the first time I had heard. I do not know if our communicable disease colleagues on the other side of our business may have been told of her death earlier and it had not come through to me, but that was when I first heard.

Mr ERDOGAN: Thank you, everyone, for coming today. Professor Sutton, last week Mr Cook told us at the hearing and claimed that you did not have authority to issue the closure order and in fact issued the order under the wrong section of the Act. What is your response to that?

Prof. SUTTON: With regard to authority? I was—

Mr ERDOGAN: Did you have authority?

Prof. SUTTON: I did. I was delegated as Acting Chief Health Officer at that time. I am now obviously the substantive position holder. But I need to be a medical practitioner and I need to have the delegated authority by the Secretary of the Department of Health and Human Services, and I did have that some months prior to this event.

Mr ERDOGAN: Did you issue the order under the right section of the Act?

Prof. SUTTON: Yes.

Mr ERDOGAN: What came out from last—

Prof. SUTTON: The section of the Act is a routine section used for the closure of premises, usually by CEOs of council, that relates to a specific premises within council. There are other sections where emergency powers can be used, but they relate more to food recalls statewide or multijurisdictional issues of food contamination.

Mr ERDOGAN: I did notice with the initial order—and this is probably something that Dr Angie Bone could answer—is that there was an initial order made and then it was varied. What was I Cook required to do to have the order varied?

Dr BONE: So the idea behind varying the order came about following the visit of the authorised officers in my team on 22 February, which was the Friday, and that is because they visited the premises and they understood that not only the ready-to-eat food but also some lower-risk production lines were in process. And so it was an attempt to try to get I Cook Foods up and running sooner—to vary the order so that they had some specific things they could do to get the lower-risk lines running.

Mr ERDOGAN: Broadly speaking, were the requirements under the initial order quite onerous for I Cook to comply with?

Dr BONE: They should not have been. They are fairly standard, all of those things. But it did seem that I Cook found it difficult to comply with them. But there was nothing unusual, and most of those things should have been in place anyway.

Prof. SUTTON: I would add, though, that listeria presents specific problems for food premises. If there is a salmonella contamination of food, it has sometimes been introduced. You need to throw away food that is not going to go through a subsequent kill step. You need to make sure that processes are all rectified, and you need to go through a thorough clean of a premises. But listeria—and I think Deon Mahoney's report might allude to this—can establish itself within the environment of a food premises. Some of you might recall the Jindi Cheese listeria outbreak. They had to go through a process of weeks of rectification, and again it was the kind of engineering and structural and flow changes to ensure that listeria that establishes itself in the environment does not reintroduce itself at any point subsequently into a food production line.

Mr ERDOGAN: So would you say that the set-up at I Cook was a hazard?

Prof. SUTTON: Yes. I think with respect to listeria especially, there are some requirements for a smooth and level floor and the ability to move food through a production line that minimises to the fullest extent possible the risk of cross-contamination.

Mr LIMBRICK: Thank you for your evidence today, everyone. Professor Sutton, one thing that does not make sense to me is that I Cook Foods—it seems that you are quite certain that they were the source of this listeria infection with the unfortunate lady who contracted listeriosis. They distribute thousands and thousands of meals to the most vulnerable members of the community. One thing that I do not understand is: why did only one person get sick?

Prof. SUTTON: I would say the first reason is because we closed I Cook. I think there was a significant risk of subsequent illness and potential deaths. But obviously at some point in the contamination of a food premises listeria will get to a point where it is at a level that causes invasive disease in someone who eats it. Every single individual will have their specific vulnerabilities and some people will be highly vulnerable, others less so. It is clear that age on its own is a risk, but people who have no other chronic illnesses and who are over 70, 75 years of age might get a gastro illness. We would never be notified about that. They might have no illness whatsoever. But there are others who might develop an illness but not be diagnosed because they do not get a blood sample. It is really only through invasive illness that the notifications come to us.

Listeria is not grown from cases of gastroenteritis, so we are not going to see the gastro that might occur with listeria infections. We are only going to see it where it causes septicaemia or bacteraemia and meningitis or encephalitis, so those really significant invasive illnesses. I think this woman might have been the first. It may well have been that there were other individuals who did not get a blood sample, who did not get a spinal cord sample and who might have died and remained uninvestigated who might also have died of listeria. But my suspicion is she was the first case of invasive listeriosis from this premises.

Mr LIMBRICK: But if she was diagnosed, on the timeline I have, on 23 January, and the business was shut down almost a month later, that must mean there was a month where thousands and thousands of meals were going out and no-one else got sick.

Prof. SUTTON: As I say, there may well have been dozens of people who got sick but with milder illness and non-invasive illness. At a certain threshold invasive illness becomes more likely, and for certain very vulnerable individuals—and I think she was one of them—the risk of invasive illness becomes much greater. I do not expect that in any contaminated food premises that all meals will be contaminated or that all meals will have a level of contamination that is likely to cause illness. But obviously within that food premises there will be some foods that are produced that are contaminated to an extent that they are much more likely to cause invasive disease.

Mr LIMBRICK: Thank you. One other thing, from a public health point of view, does it concern you that we have an ownership structure here with Community Chef where one of the shareholders, the City of Greater Dandenong council, regulates a competitor and then we have the Hobsons Bay City Council regulating itself? Do you see that as a risk from a public health point of view?

Prof. SUTTON: Look, I am not a regulatory expert, but I see it being potentially problematic in as much as I would want a fair and fearless investigation into any premises if there is a potential public health risk to the community at large.

Mr STENTON: As a conflict of interest, I think I have gone to lengths to the decision-making about Community Chef and the department—nothing to do with I Cook. I think the issue here—and I am not going to talk about the city of Dandenong's structures—is as a board member of Community Chef, whoever they are, they have board obligations under ASIC rules and they operate under ASIC rules, so that is the first sort of obligation of an individual. As the CEO of Dandenong, he has a regulatory obligation for that LGA for compliance with the food services act.

Your point about Hobsons Bay, similar issue. Different roles for different purposes within our own department we would expect. If Community Chef were competing in a market with I Cook, then there is a real conflict of interest and people should recuse themselves. We would expect people in our own department to recuse themselves if they were on a board and there are dealings with that board, regulatory or otherwise. So I think being clear what the various roles of an individual are—

And, as I say, on one level we would expect all of our staff to do exactly what occurred, which is to recuse yourself from the decision because you have a perceived conflict of interest.

Mr LIMBRICK: Even ignoring the issue about Mr Bennie being on the board, if we ignore that for a moment and just consider the councils as a whole, as an entity—so Dandenong and Hobsons Bay councils—those councils, there are significant financial and other problems if Community Chef fails, right? So doesn't that set up some sort of problem with incentives if they are regulating themselves effectively?

Mr STENTON: I am not sure the councils would be in any financial problem because the company was separate from the councils. The board members operate as board members. And again, without going through the structures of the organisation, there are exemptions for councils to compete in the food market, so they do not need to go to competitive tender for food if they get their food from Community Chef. The point Ms Crozier made, the reason that the department provided financial support is nobody—department, council or anyone else—wanted to see a fledgling company that was getting its operating model right cease to trade and then run the risk of those meals not being available to vulnerable people. So the decision-making by the department, and I suspect councils, is we need this thing to keep going until it gets to a maturity so that we do not run that risk.

Mr LIMBRICK: One further question; maybe this is for Dr Bone. On 21 February, on the evening before that, Mr Cook gave evidence that there was a subsequent—I think he referred to it as a forensic clean of the premises. He claimed that someone spoke to Mira from the department and told them that the clean was not good enough. I think it was Ms Johnson who spoke to Mira from the department. But this was before Ms Johnson had actually gone into the premises that day, on the 21st. What is your response to that?

Dr BONE: That is certainly not what I was told, and I cannot verify whether Ms Johnson had been in or out of the premises when the call was made because I was not there. But yes, I certainly was not given that information, and I would be surprised.

Dr KIEU: This question may be for Professor Sutton or maybe Mr Stenton. There is a discovery process going on in the Supreme Court, so what has the department done in providing or supplying the documents so far?

Prof. SUTTON: Probably a senior legal individual?

Dr BONE: I can answer, certainly. I am not from the legal side of the business, but the preliminary discovery process is complete. We have provided the documents that were requested.

Dr KIEU: Thank you. Now coming back to the acquisition of Community Chef by Western Health. From my understanding, class 1, like the one being held by Community Chef, can prepare and serve the food. Class 2, or 2A like I Cook, can only prepare and not serve the food. So from the different classes like that, I Cook would not have been a competitor or a tenderer for the consideration of Western Health or any hospital or any aged-care facility. Is that correct?

Mr STENTON: Again, without knowing the details of the tender requirement but taking your proposition, the tender would specify the type of food—cook-chill, bulk food, for plating et cetera. So the tender specifies what the requirements for the health service are—in the case of Western Health, this was for the Joan Kirner facility, so it was a cook-chill requirement—and then people respond to the tender. Community Chef were successful in that tender. To say it is unrelated is not quite right because our consideration about acquiring was that we had already funded them to maintain service continuity. The tender proved to us that their capacity was something that would help our capacity in health services. That was part of the consideration about whether we proceed down that path. The Western Health tender was the Western Health tender; I do not even know who applied, I have no idea. But under normal tender process we specify, ‘This the type of food’. And we do not go to tender for food very often, because, as I say, in hospitals particularly it is all run out of central production kitchens and provided across the metropolitan health system. The capacity at Western was not sufficient, so they went to market.

Dr KIEU: Now, Professor Sutton, some of the test results coming back from MDU found low levels—I think less than 10 units of cfu. But the regulatory requirements state the safe level to be 100. Is that of concern to you given that different people have different reactions to or tolerances of very serious bacteria like listeria? Is it of concern, and is there anything we should do about that or not?

Prof. SUTTON: In my opening statement I made the point that the investigations into listeria at I Cook and all the other potential sources of food for the deceased patient were investigated for the presence of any listeria whatsoever, because we already knew that there was a sufficient level of listeria to cause invasive illness in that patient. So calling them ‘safe levels’ is not the appropriate characterisation; they were compliant levels in terms of the Food Standards Code. But the fact that listeria was present but at those low levels is not an indication that they could not possibly have been in greater levels in other food or other samples that were not taken to cause illness in that patient or others.

The CHAIR: I have got a few questions, but I just cannot decide which ones to ask at this stage. Given, Dr Bone, the seriousness that you received, were you surprised that all charges were dropped?

Dr BONE: Yes, to be honest, I was surprised that all charges were dropped.

The CHAIR: Did the department consider taking their own action?

Dr BONE: As we were not the direct regulator, my understanding is that we could not take the action ourselves. But we did not know that Dandenong were dropping the charges until after that happened.

The CHAIR: Right, because I think looking at the fact that this company has been operating since 1986 providing food and then in this sort of flurry of action in three days extremely significant problems have been found to the extent that they were asked to destroy hundreds of thousands of dollars worth of food, and from your advice to us, Dr Bone, they were recalcitrant in their actions, which one would have thought when hundreds of thousands of dollars was at risk. But you would attest that under that section of the Act it was important that that food—anything produced before 13 January—be destroyed.

Dr BONE: Yes, because it would be impossible to tell which foods might have listeria in them and it was an urgent situation so that was the most appropriate action. But I do take your point absolutely that it is surprising that the problems have clearly been not just three days worth—it had been a longstanding issue that had not been picked up before we were involved.

Prof. SUTTON: And it was food since and including 13 January, not prior, just for the record.

The CHAIR: Pardon me. Thanks for the correction. Mr Stenton, if there are 15 councils that have an interest—

Mr STENTON: Seventeen, I think.

The CHAIR: Seventeen, in Community Chef, would this mean that none of them could actually issue a closure order, for all of them would have some—

Mr STENTON: If they are on the board. Again, in my commentary before, I was talking about what we would expect. They would have their own conflict of interest rules within local government. As I understand it not all council shareholders are board members. Again, depending on where the LGA was—so again Community Chef operates out in the west somewhere, I think it was Hobsons Bay that people talked about, that would be a conflict problem for them if they do not recognise the difference between their regulatory role as a council and/or they do not have other delegated people within the council to make those decisions.

The CHAIR: But given the circumstances in Dandenong, presumably this would be the case in numerous other councils that were shareholders. It seems there was some board member rotation as well from councils.

Mr STENTON: Again, Ms Patten, if they were in competition, so again the different roles of a board member—a board member has a responsibility to the company that it is a board member of, as a CEO of a council they have obligations under the food services act to apply those regulations.

The CHAIR: So if any food business in their area was found—

Mr STENTON: Was potentially a competitor with Community Chef or anybody else—

The CHAIR: Community Chef.

Mr STENTON: I do not know what other companies or organisations councils are on boards of. Again, it is not for the department to apply our standards of conflict of interest, but normally you would expect a board member to recuse themselves from decisions at board level but also in their day job.

Ms CROZIER: Can I just go back to the questions that Ms Patten and Mr Limbrick have asked to get some clarity around a number of issues? You are saying, I think, as Ms Patten said, in the last three days there was a flurry of activity and there was this mad rush to shut the company down. But the food was safe before the 13th of—you gave a timeframe, but the food was okay up until the 13th and then there was an issue, number 1. Is that correct?

Dr BONE: That was the date that was picked because that was the date of admission of the patient to hospital.

Ms CROZIER: Okay. So can I just ask about the patient in hospital. Professor Sutton mentioned the Jindi cheese issue, so we know that food—cheeses, soft cheeses—have listeria, processed meats have degrees of listeria. So if a sandwich is left out of refrigeration for a period of time, what effect would that have on the listeria present in any of those food elements in a sandwich?

Dr BONE: The important thing to remember is that listeria can grow in a refrigerator as well as—

Ms CROZIER: I realise that.

Dr BONE: It is more to do with the shelf life of the product rather than whether it is refrigerated or not. Products will be refrigerated if you wanted to stop the growth of something like salmonella, so it is probably not pertinent to this particular issue about whether it was left out of a refrigerator from a listeria point of view.

Ms CROZIER: Okay. So in terms of the shelf life, did you speak to Knox Private Hospital in terms of perhaps some handling that they may have done? Was there any issue with the handling there?

Dr BONE: Knox City Council contacted Knox Private Hospital, because that is the way the system works, to assess their food safety program and their practices, and they were satisfied. Knox Private Hospital did a range of environmental swabs and, as I say, they were all negative.

Ms CROZIER: Okay. They were negative?

Dr BONE: Yes.

Ms CROZIER: Can I go back to Mr Stenton in relation to—Community Chef has a number of contracts with health entities, meaning hospitals and health boards—

Mr STENTON: Only one that I am aware of, but I am not privy to all of their contract arrangements.

Ms CROZIER: But they supply to a range of entities?

Mr STENTON: They supply to a range of private sector entities, I understand, in aged care, yes.

Ms CROZIER: Okay. But what they have entered into with those 17 councils are multimillion-dollar contracts, and now with the acquisition through Western Health that is being negotiated, will that become—

Mr STENTON: So, again, I am not aware of what their arrangements are with other companies. The arrangement with councils, again my understanding is the councils formed a joint venture to establish Community Chef as an entity for the purposes of providing meals, which they were obligated to provide under the home and community care program and the disability program. Part of their business objective, if you like, was to try and grow their business, but that was their primary consideration and that is the consideration that the department looked at in providing funding support over that period. So there are contractual arrangements between the council and Community Chef—they still have contracts in place. But payment schedule—and again, this may have changed since last I was close to it—they estimate their volumes and provide, effectively pay for, that in advance. But there is a refund arrangement if they do not meet those volumes.

Ms CROZIER: So once this negotiation process is finalised with Western Health, I presume that the contract, the details of that tender, will be made public?

Mr STENTON: The details of tender—well, the tender request is in the public domain. The details of—

Ms CROZIER: But you said you did not know who else was—

Mr STENTON: No, I do not, because tender arrangements generally are commercial-in-confidence. People put a submission in confidentially and the department has no knowledge of who the tenderers for that tender were. I know Community Chef were, because they were the winning tender, but I do not know anybody else. Normally with tender arrangements we do not as a department or in health services release those details.

Ms CROZIER: It just seems unusual that an organisation that is under severe financial strain and has been since its inception, since 2009, has been awarded this very large multi-million-dollar contract with Western Health, with very little public scrutiny.

Mr STENTON: Again, Ms Crozier, I do not know the value of the contract, so you—

Ms CROZIER: Well, I look forward to the government being transparent about that and hopefully letting the Victorian community understand.

Mr STENTON: I suspect it is volume based, so it is probably variable.

Ms SHING: Firstly, thank you to the public health team. I know that we are dealing with an actual pandemic and you have had to take time away from that actual pandemic to deal with allegations of a conspiracy and Mr Cook's fight for up to \$26 million in damages.

I would like to put to you just a number of concepts that Mr Cook has outlined in public comment, including an article entitled ‘Recipe for “justice”’, published by the *Dandenong Star Journal*, in which Mr Cook says that the charges and health inspections were:

... a set-up from day one ...

And then another quote:

There is not a single scientific report to show we were wrong or breaking any laws.

We were destroyed on the alleged basis of a brought-in (smallgoods) product. It would be like closing down Coles for something similar.

And then finally, ‘I don’t like conspiracy theories, but why else would you do something like that?’.

To go to the detail in Mr Cook’s allegations, I would like to explore how this matter from your perspective, Mr Stenton, as well as Professor Sutton and Dr Bone, compares with the steps and processes taken by the department and/or CEOs or the Chief Health Officer at that authority as required to be exercised in other situations that involved a comparable health risk. I note the evidence that there are between eight and 35 cases of listeria identified by the department per annum. What are the processes like here in comparison to other matters which are acted on by the department following notifications of these serious public health breaches?

Prof. SUTTON: Thank you, Ms Shing. To the point of the threshold for action for some closures or voluntary recalls more commonly, we often have much less evidence or less compelling evidence for a closure. You might recall semi-sun-dried tomatoes being recalled across Australia. That was on the basis of epidemiological evidence only. The organism hepatitis A was not identified in any of those foods, but they were still recalled on the basis that, I think, people were 80 times more likely to have consumed that type of food and gotten hepatitis A versus those who did not have hepatitis A. So sometimes it is simply an epidemiological link. There are other circumstances where salmonella, for example, is implicated because we see a spike in a particular species of salmonella. We do not have the DNA fingerprint to make a link between contaminated food. Sometimes it is not found in a particular food or we just have the species of the organism and we do not have that fine detail of MLST, binary type, serotype or the DNA fingerprint. I think it was more compelling in I Cook’s circumstances than a lot of others either that have been closed or where, as I said, more commonly, we have gone to a business to say, ‘Look, here’s the evidence of an outbreak affecting multiple people in Victoria or across Australia. We think your food is implicated. Here’s the evidence for it’, and they voluntarily close their production and make a voluntary recall.

Ms SHING: So are you satisfied then from a governance and risk management perspective that you have made the right decision given what you have referred to, Professor Sutton, as abundant evidence, and are you satisfied, Dr Bone and indeed Mr Stenton, that the steps taken to understand what the council had done on the one hand and what I Cook had done on the other were satisfactorily explored prior to that decision being made and prior to the order and varied order being issued?

Prof. SUTTON: Certainly for me, yes.

Dr BONE: Yes, and from my—

Ms SHING: Thank you, Dr Bone. Sorry, Mr Stenton, I interrupted you.

Mr STENTON: That is okay, Ms Shing. As I said, the department goes to great lengths to separate the public health regulatory function from all other decision-making—I think that is the first point. To this conspiracy theory, there were I think three separate processes: one process over a period of about six to eight years of providing funding support so that continuity of meal delivery under the Community Chef model was retained; a separate decision related to potentially acquiring Community Chef for the purpose of solving a business risk in the hospital sector, not the community sector; and then, as I said, a completely separate and unknown and unrelated decision, so at no time did anyone involved in the considerations around funding for Community Chef or the acquisition of Community Chef have any knowledge of or involvement in a separate decision by the Chief Health Officer to close.

Ms LOVELL: When I asked my question earlier about the release of the name of I Cook, you—I think it might have been Dr Bone—said the department would have written to all of the customers of I Cook on the evening of Thursday the 21st. In the evidence that was given to us by Leanne Johnson this morning—the

transcript of her evidence—she said that on 22 February 2019 at approximately 4.00 am, ‘I served the closure order on I Cook Foods’. Is it normal practice for DHHS to advise the customers of a company of a closure order before the closure order has actually been served on the company?

Prof. SUTTON: Well, I think it was always going to be served; it was only a matter of waiting for the staff to arrive at 4.00 am for their shift for it to come into effect, as it were, but the order had been written and signed hours before then. So the decision was made and was effectively in place; it just had not been notified to staff because there were no staff to contact until they turned up for work unfortunately. And the email, we felt, needed to go out so that no-one was taking a meal from any time in the morning and inadvertently eating potentially contaminated food.

Ms LOVELL: So an email can go to the customers but not to the actual company?

Prof. SUTTON: Well, we could not serve a closure order other than by taking it physically to I Cook premises.

Ms CROZIER: Should it have been a section 44 of the Act—

Prof. SUTTON: No, I do not think so.

Ms CROZIER: if it was such an urgent issue, if you are doing that?

Prof. SUTTON: No, section 44 does not relate to urgency per se. Section 19 relates to a premises that is within the responsibility of a particular council area. So for settings that sit within a council section 19 is the normal and routine section to use under the *Food Act*. As I say, if you are making a statewide or Australia-wide recall, then the emergency section would be more commonly used.

Ms LOVELL: It just seems like there is a breach of natural justice that the customers are told but the company is not closed—

The CHAIR: Before the company.

Ms LOVELL: Yes.

Dr BONE: Perhaps I could also note that Ms Johnson this morning did say that she had been talking to the company about the fact that a closure order was likely.

Ms LOVELL: Was likely?

Dr BONE: Yes.

Ms LOVELL: Likely, not being imposed.

Ms VAGHELA: Ms Shing touched on smallgoods, so I want to continue on from her questioning. Was any investigation undertaken as to whether the source of *Listeria mono* detected at I Cook Foods originated in presupplied meat products?

Prof. SUTTON: As I have said earlier, the particular implicated meat product was of a different binary type, a different MLST, a different DNA fingerprint, so it was not implicated in the human illness that we were investigating.

Ms VAGHELA: Now going back to I Cook, the licence or the permit that I Cook had, it had a class 2 permit. We have spoken today to Community Chef. They have a class 1. Dr Bone, you mentioned that what they do is once the audit gets done they identify what the gaps are, and the manufacturer is supposed to fill those gaps. We spoke to Ms Johnson today as to how this worked. It was explained that in this instance, because I Cook did not have a class 1, the council would just rely on an independent food safety program where the company will get audited—they will get the report. But, carrying on from what Dr Bach was saying, we were not quite sure in terms of the answers that we got, considering that I Cook was providing to a vulnerable cohort, if they did not have a class 1 or if they did have a class 2 certificate. If the council was relying on independent audits being done for the food manufacturers, we could not identify whether historically, for the

past four years, they had done those audits, those gaps were found and whether those findings were remedied or not. All of a sudden then, once this gap is already done, we see 48 charges coming up, but we are still surprised as to why that was not followed. Or was that followed?

Dr BONE: Yes, so perhaps I can clarify the class 1, class 2 issue, first of all. A class 1 premises—this is defined in the *Food Act*, so it is legislated—supplies potentially hazardous food to vulnerable people. It does not mean that it needs to be directly supplied, as was intimated at the hearing on 17 June. It is just that you are supplying food that finally gets to vulnerable people—so that would be hospitals, aged-care facilities or a caterer like I Cook Foods. A class 2 premises is somebody who provides potentially hazardous food to the general population—so that can be a cafe, a restaurant, a bed and breakfast or something like that. A class 1 premises must have an independent audit and must have a council inspection annually. A class 2 premises that has an independent food safety program must have a council assessment, which is essentially an inspection annually, and also a third-party audit. So actually materially it probably did not make very much difference in this case whether it was class 2 or class 1. Councils should have been doing an inspection, and it is their responsibility also to look at the audit report and feel comfortable and confident that the audit report is representing what is actually going on in the premises. Does that help?

Ms VAGHELA: Yes.

Dr BACH: I just have one quick one. Dr Bone, you and I were discussing before the understanding that the department has about what constitutes a report, so that was very useful. And you had said that there was some confusion about what a report would need to be, and you made a comment that I take regarding email. I have got the closure order in front of me that says, up the top, that you, Professor Sutton:

... am satisfied from the report ...

So I dare say that is where the confusion has come from—that the document states that in the singular. And yet I understand where you are coming from; well, your understanding, in this case at least, is that what you had received verbally on the phone and via electronic correspondence could constitute a report. I noted your comments earlier, Professor Sutton, about the fact that sadly this kind of thing has to be done from time to time. Is that the general understanding that the department has about what constitutes a report? Is there any more information you could give us or are there any guidelines regarding what a report constitutes? Because from a layman's perspective it does seem to me to be a relatively informal sort of process through which to ultimately make some very serious decisions, as you have commented upon already.

Dr BONE: Yes, I can understand the confusion. The language in the Act probably is not that helpful to us. But I think the reality of the speed with which decisions need to be made means that the idea that somebody would be sitting down and writing a full report—

Given the range of different bits of information that were coming in, to do a full report would take a week, and we do not have a week in this situation in order to act.

What happens as a standard protocol is essentially we have this thing called an incident management team, which we had on the 21st, where all the different authorised officers bring in all the information to get a complete, collective picture of what is going on. And then that is recorded. That was recorded in an email because that was the quickest way to get the information to all the people who needed to know.

Dr BACH: I understand. So the incident management team sat down with the various different inputs that you had from Dandenong council and put that together in some sort of document in an email.

Dr BONE: Not just Dandenong council. We were taking into account the laboratory evidence, we were also taking into account the food history of the deceased and we were also taking into account the consumers who were vulnerable. So we were looking at it completely, in the broad picture.

Dr BACH: I understand. But again if it is possible to get access to that document that was created from the department, that would be wonderful.

The CHAIR: Thank you all. Just one final question. Would you have done anything differently, with this great benefit of hindsight?

Prof. SUTTON: I do not know what circumstances might have made it different in terms of working constructively with I Cook. I think it is a terrible shame that they have not gotten up and running again and that 41 people lost their jobs, some of whom have no doubt gone on to other work. But I wish we had found a common ground to constructively find a way to get it up and running. That was our motivation, with safety front and centre. Of course it was Ian Cook's motivation to get up and running as soon as possible, and for whatever reason we could not come to that common view about how to make that happen. I think that is a mystery to me, but I think that is something that I wish we could do differently if we had our time again.

The CHAIR: Thank you. On behalf of the committee, thank you for making the time to meet with us today. It has been very useful in our deliberations. As I mentioned, you will receive a copy of the transcript, and ultimately that transcript will be on our website and will form part of the report. I thank you all.

Witnesses withdrew.

WITNESS

Mr Deon Mahoney, Head of Food Safety, Produce Marketing Association Australia-New Zealand.

The CHAIR: I declare open the Standing Committee on Legal and Social Issues public hearing. I welcome any members watching online; thank you for sticking with us. I would also again like to quickly acknowledge the Aboriginal peoples and the traditional custodians of the land that we are meeting on but also the lands that Ms Shing is meeting on and anyone who is watching from an Aboriginal background. Today we are hearing evidence for our Inquiry into the Closure of I Cook Foods. All evidence taken at this hearing is protected by parliamentary privilege, and that is provided under our *Constitution Act* but also the standing orders of the Legislative Council. This means that any information you give today is protected by law, but any comment that is repeated outside the hearing may not be protected. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament. As you can see and hear, all evidence is being recorded. We have got the great team from Hansard here accurately transcribing this session, and they will provide you with a transcript to ensure that we have made no errors in this session. Ultimately, that will appear on the committee's website. So really, if you would like to make some opening comments to us, then we will open it up for a committee discussion. Thank you, Mr Mahoney.

Mr MAHONEY: Thanks, Ms Patten. I come to you this afternoon as a food safety expert not associated with the oversight of that premises but having expertise in food safety in a number of different settings—international, domestic and also with the food industry. I have been involved in the establishment of international standards for *Listeria monocytogenes* in food products as well as nationally with Food Standards Australia New Zealand. I was involved in the oversight of those regulations in Victoria with Dairy Food Safety Victoria for a period of six years and have been involved in some significant investigations associated with *Listeria monocytogenes*, most recently in South Africa with the world's biggest outbreak of listeriosis associated with a processed meat product. But here in Victoria I was involved with the investigations at Jindi Cheese back in 2013 and also investigations inside food premises in Victoria as well.

Dr KIEU: Thank you for your appearance today. We very much value your appearance in order to educate us about the listeria relevant to this inquiry. Being an expert in the monitoring and the response to listeria could you tell us: is there a safe level of listeria, and also, in the case of the death and also some of the tests coming out of MDU which found that the level in December that they were given was less than 10 units, could a sample or could a contamination with less than certain levels like that cause the death of a person? That is my first question.

Mr MAHONEY: Thanks, Dr Kieu. In the past in food microbiology we have talked about 'infective doses', but probably for the last 20 years we now talk about no thresholds: one cell can cause a form of foodborne illness, whether it is listeriosis or salmonellosis or E. coli infection. So there is no threshold that says something is safe or unsafe, but we work on the basis of probabilities. Hence the Food Standards Code differentiates between foods that will support the growth of listeria and foods that will not support the growth of listeria. That differentiation is based on the physicochemical properties of the food: its pH, its acidity levels, the amount of moisture—what we call the water activity. So that is not a measure of water, but it is a measure of available moisture for microorganisms to grow. So we differentiate between foods that will and will not support the growth of listeria. If a food will support the growth of listeria, the tolerance is absence—zero cells in 25 grams—and under the Food Standards Code there are five samples that need to be tested. So that is zero in 5×25 , which is 125 grams of food product.

In the case of foods that will not support the growth of listeria, these are foods that are particularly dry or particularly acidic—so typically a feta cheese, for example, will not support the growth of listeria—and the limit there is less than 100 cells per gram of that food product. So there is a tolerance, and that is all based on mathematical modelling that establishes that, assuming that someone had less than 100 in 1 gram and they ate 100 grams of that product, they would be exposed to less than 10 000 cells of listeria. And so then the probabilities of them getting sick are quite small, quite distant. Those are the calculations that are made in terms of setting food standards.

But what has happened in recent years is that we are finding that some of these foods that will not support the growth of listeria and with very, very small amounts of listeria are still causing illness in vulnerable

populations. So the standards that were set around 2005 and implemented in Australia in 2014–15 have set those limits at zero tolerance for foods that will support the growth and less than 100 for foods that will not support the growth. But we are increasingly seeing in some quite diverse food products—we have had internationally examples of listeriosis caused by listeria in ice cream at very, very low levels. There are schools of thought amongst some microbiological experts that zero tolerance is where we should be. So for someone who is vulnerable there is a question of how much exposure, and that is where the complexity of this lies.

Dr KIEU: Coming back to your talking point about probability, particularly on the materials or the food that do not support the growth, that must be a distribution, so that is why there are certain cases.

Mr MAHONEY: That is correct.

Dr KIEU: It is that use of a fixed number. It could be bell shaped or not. Could you also explain to us the process? For example, the contamination could be from the food. It could be in the preparation, the food source, the supply to a production point and then to the delivery and the handling of the food. How could contamination grow or enter into the chain of processing like that?

Mr MAHONEY: Yes, absolutely. *Listeria monocytogenes* can be contaminating incoming ingredients. If we are talking about a farm situation, it can be in the water, it can be in the environment, it can be in animals. In a food-processing facility it could be on the incoming raw materials—be they fresh produce, such as lettuce; it could be in meat, could be in poultry, could be in seafood products. We often do not establish what was that event that brought the listeria into the factory, but one of the challenges with listeria is it becomes what we call resident in premises. Once it has come into a premises it might be some time before you have actually identified it in your plant, but once it becomes resident it is incredibly difficult to get rid of. So in Victoria there are many food premises where we know they have a resident strain and it will occur from time to time. It can be even as much as 10 years after an event where it was introduced into a premises. It lives in the floor, it lives in drains, it can live in coolrooms, and that is the challenge we face. We often do not know what the event was that brought it into the premises, and so with the detection of a listeria serotype or a listeria DNA sequence type you might have quite a range of different sequences coming in in raw materials. You, though, might find in the final product different sequence types because it may be the resident listeria that is living in the drain or living in the floors. Floors are a particular issue with many food premises. Because of their porosity, they are difficult to clean and they can be a source of contamination.

Dr KIEU: May I follow on some of the points that have been raised earlier by some members about the death of a lady whose death was considered to be connected to listeria? By the time that I Cook was closed by the order there was some certain time intervening in between. But if there was a contamination that causes such death, then why weren't there many more coming during that intervening time?

Mr MAHONEY: I cannot specifically comment on that case. But what I can say in terms of listeriosis is that, one, the incubation period can be quite lengthy. It can be from seven days up to, in extreme circumstances, 70 days, so it can be a long time after the event. But whether someone gets sick, there are a number of issues: one is their vulnerability, and two is the fact that listeria is not distributed homogeneously through a food product. It is very sporadic, so in a batch of food there may be no listeria, but in one subsample there might be listeria because it is not spread evenly through food products. In liquid products microorganisms tend to be spread fairly homogeneously, but in solid products—be they a dairy product like a cheese or fish or a sandwich or a processed food product—they can be very unevenly distributed. So that is one of the challenges. One of the issues with listeria is that it can be spread by droplets. Someone spraying water in a food premises or stomping around in water creates aerosols. And just like we are facing with COVID-19, these aerosols can spread in the air and can contaminate a food contact surface or the actual food, and if it happens to be that it is someone who is vulnerable that is exposed to that food, then they are at risk of coming down with foodborne illness.

Dr KIEU: The other one was the strain that was found in the isolate from the human and also the food—the non-human sample—seemed to be very closely linked according to the MDU report. And particularly it is a very strong point that that kind of strain is not related beyond certain thresholds in any databases—be it international, kept in the USA, or be it the Australian database. So do you have any comment about the uniqueness of a certain type of listeria and why that is so unique?

Mr MAHONEY: It is to do with the genetics of the organism. Working in the dairy industry in Victoria, when I was working for Dairy Food Safety Victoria, we held a database of listeria isolates that we had obtained from dairy products in Victoria, and practically—except for the resident strains I talked about—every strain that we got from a new product from a new manufacturer had its own unique whole genome sequence. So when we see a match between a product and the environment or the product and a patient, as you have indicated, it strongly—very, very strongly—suggests where it came from and what the causative food was. But the whole genome sequences are quite unique, so in the United States their databases have massive numbers of sequences and they are all quite different. But when you get a match at a close alignment between a sample in a food or in an environment or in a patient, a clinical sample, it is a very strong suggestion of where it came from.

Dr KIEU: Just like fingerprints of certain—

Mr MAHONEY: Absolutely, a fingerprint.

The CHAIR: Thank you, Mr Mahoney. My imagination is going wild with the listeria hiding in the floors everywhere and drains. But on that, and the fact that we now have basically a zero tolerance for listeria, is that practically possible in any food business?

Mr MAHONEY: Yes, it is, and one of the very strong signals that we send to food manufacturers is that if you have not found it in your premises you are probably not looking hard enough. If you are in a wet premises, if you are in a dairy factory or a seafood processing plant or particularly in the smallgoods industry, if you have not found it you are probably not looking for it. And you may not have *Listeria monocytogenes*, but you have probably got one of the other listeria species. There are 18 different species of listeria. Only one of them, *monocytogenes*, is a human pathogen, but it is the one we are most concerned about. Then the direction is that companies should be, one, recognising the hazard if they are producing ready-to-eat foods or if they are producing foods for vulnerable populations. I mean, they are the two things that should set food manufacturers really closely thinking about their vulnerabilities—if you are selling ready-to-eat food, so it is not going to be subjected to any further heat treatment or processing, and if you are serving vulnerable populations.

In that case we are anxious that they look at their raw materials but importantly that they look at their own environment and they do environmental monitoring. Environmental modelling is our preventative approach, because testing the final product is notoriously inefficient. It really gives us a validation for that product at that day, but people are not testing their food products every day, certainly not small premises. The cost of a listeria test is, for them, considered to be prohibitive. But what we are very keen on is that they do environmental monitoring, and that involves a thorough scoping or mapping of their facility and identifying areas where listeria might be hiding out. We look for the most unusual places; it can be in hollow legs on tables, it can be underneath tables, in drains particularly, in wet areas, areas where there is condensation. So you walk into a premises and you look for anything overhead where there might be condensation; you look for the way the product is handled, the way it is stored. But environmental monitoring is a really critical part of this, so that if you do have it you know where it is and you are on top of it with your cleaning and sanitation programs.

The CHAIR: And I think you were saying before that you may not get an outbreak or you may not get a report of it for years even if it has set up shop or set up home in your facility.

Mr MAHONEY: That is right, yes. And the moment you let your guard down it can reappear. That is what we have observed again in the industry, where suddenly listeria has appeared and we have gone back and undertaken a root cause analysis and we have found that there was a change of a shift and there was a new member of staff that was not adequately trained or they ran out of sanitiser on that particular day. There is usually a root cause for why it has reappeared, and that has often been the case. It is about being on top of this every day, every shift.

The CHAIR: Given the ability we have to genetically identify the various forms of listeria, if a company had been found to have a product that had listeria, say, two years ago, could you expect that it would have a similar genetic—

Mr MAHONEY: Oh, the resident? The genome is fairly stable. It is not my area of expertise, but certainly when you talk to the people that are doing the whole genome sequencing, they find that the genome is fairly stable but there is just a multitude of them out there. Yes, if it was in the plant two years before, it would not be unusual for it to reappear. It could be because it is hiding down a drain. Our experience in the dairy industry is

that that was often the case—that it lives in drains. It is a motile organism—so it can swim—so it can live quite deep in a drain and then swim and be in your premises, and then walking around and poor hygiene—

The CHAIR: Walking as well?

Ms LOVELL: With the slug!

Mr MAHONEY: Well, not walking—what I mean is individuals walking around and spreading it around the plant.

The CHAIR: The deep cleans that you would expect in facilities like I Cook—a deep clean and then a forensic clean done on a regular basis—

Mr MAHONEY: On a regular basis, yes. You would expect a food premises has a documented cleaning and sanitation program, they would have a documented and monitored environmental monitoring program, and that if they got a detection with their environmental monitoring that would be a signal then for a deep clean, to clean the premises, to start again, stop production and halt any product too. If you had a detection, you would immediately be very concerned, very anxious, about any product that has been produced since your last clean test, as it were, from environmental monitoring.

Ms CROZIER: Thank you very much for appearing before the committee, Mr Mahoney. Firstly, have you provided any reports to the department?

Mr MAHONEY: I was asked to prepare an expert witness statement for the department, yes.

Ms CROZIER: And what did that include—what was that?

Mr MAHONEY: I have a copy, if you wish, here.

Ms CROZIER: When did you provide that to the department?

Mr MAHONEY: It was Saturday a week ago.

Ms CROZIER: What was their reason to ask you to do that?

Mr MAHONEY: I had worked with the department in the case of the Jindi Cheese outbreak back in 2013, and I have had contact with the department through the work I am doing at the moment with the horticulture sector. So they asked me to provide a statement.

Ms CROZIER: On what basis did they ask you to do that, seeing as though you have no history of this situation involving I Cook Foods?

Mr MAHONEY: They asked me to make a statement about listeria and listeria management in the food industry—information about the current standards.

Ms CROZIER: In preparation for today?

Mr MAHONEY: No, they just asked me to come in and to prepare a statement.

Ms CROZIER: If you could provide the committee a copy of that, that would be very helpful. Thank you very much.

Mr MAHONEY: Yes, sure.

Ms CROZIER: Can I ask about chlorine fogging: does that eliminate listeria?

Mr MAHONEY: Any sort of sanitation requires a really thorough clean. If you have got a dirty surface, any sort of sanitiser, whether it is chlorine or quaternary ammonium compounds or peracetic acid, is going to be ineffective. Chlorine fogging is fine for surfaces, but it is about whether it can get in and underneath. Usually we are talking about cleaning and sanitation with chemicals, and fogging is just one way of applying it, but there are other ways—you can soak pieces of equipment in chlorine solutions, hypochlorite solutions. We have

found in Australia that chlorine is effective against listeria, as are quaternary ammonium compounds, which is another sanitiser used in the food industry. Peracetic acid is another very strong sanitiser which is used.

Ms CROZIER: And what about forensic cleans? Does that assist in eliminating listeria?

Mr MAHONEY: Yes, it does. What we have found with so many food premises is that they will do a clean and it will be fairly superficial. Just think of a meat slicer: you wash it. With listeria, it can get into the most unbelievable niches in these pieces of equipment, and they need to be dismantled and thoroughly soaked.

Ms CROZIER: That is a forensic clean?

Mr MAHONEY: Yes. Well, it should be part of standard practice, to disassemble a piece of equipment and thoroughly clean it. But when you get a listeria detection, yes, the forensic clean means to really pull everything apart and be underneath benches and looking at niches where this organism can grow. We find that it can be found on touchscreens and on switches on electrical boxes—places that you would not think that it would be. We have found it on plastic strips—the strips that you have to keep areas—

Ms CROZIER: So it is very common, as you said, in food manufacturing facilities?

Mr MAHONEY: Well, it is not very common, but it is what you are really concerned about when it comes to these ready-to-eat foods.

Ms CROZIER: Sure. In relation to your commentary around how it may have been in the facility for years, it may have come in in some way—we know that there is listeria, as you describe, in the dairy industry and Jindi Cheese. It is very common. Warnings are always given to pregnant women not to have soft cheeses, for instance, and processed meats. The thing that we have been discussing this afternoon is with the number of food preparations that have been done by this organisation, I Cook Foods, and with only one person getting sick and sadly dying—for a whole range of reasons and partly the comorbidity of what has occurred—in relation to the tens of thousands of meals that may have been prepared in the lead-up to the closure of I Cook Foods, if there was a widespread issue in the facility, and I know you said it was sporadic, surely there would have been more instances of people getting sick, because this food was distributed to the vulnerable. I mean, it was going to aged-care facilities and it was going into Meals on Wheels, and they are often the elderly. So with only one person succumbing—sadly—is that your experience for listeriosis or having an outbreak?

Mr MAHONEY: Absolutely. If we go back and look at Jindi, for example, there were 23 people that—

Ms CROZIER: Correct. So there were 23 people affected. There is only one with this.

Mr MAHONEY: Yes, but the point was that there were massive amounts of cheese that were being distributed around the country.

Ms CROZIER: But there were tens of thousands of meals being distributed in the lead-up, when there was listeria present according to the council.

Mr MAHONEY: It does come down to this sporadic contamination and the need to be on top of this. You cannot test the safety in these products—

Ms CROZIER: Could it come from the meat? If it was in that corned beef or ham or whatever the meat was, could it have come in as from a sporadic incident in that one piece of meat? And that has then been prepared in that sandwich, and actually it might have got a sporadic spore or you have picked it up, but it came through that meat and there was no way that the organisation would have known that?

Mr MAHONEY: Well, does the company have a raw material specification? You would expect they would have raw material specifications.

Ms CROZIER: They are international standards, so I suppose they meet those.

Mr MAHONEY: Well, no. I mean, their food safety program should be looking at incoming raw materials and having a zero tolerance for listeria—that would be an expectation of a premises producing a food for

vulnerable populations—so that any incoming raw materials are very closely monitored to ensure that they are not bringing it into the plant. I cannot speculate on whether it was on the meat or not—

Ms CROZIER: But that is the problem.

Mr MAHONEY: Yes, but we have got this unique, whole genome sequence that suggests it was in the plant, and—

Ms CROZIER: But it was also found in samples in Queensland as well, in terms of that MDU—

Dr KIEU: Well, it is a very different strain according to what the MDU said.

The CHAIR: I think we might have time to come back, but thank you.

Ms VAGHELA: Thanks, Mr Mahoney. We heard about a few cases of listeria—you mentioned about the name of the cheese and one of the types of melon that we heard from other presenters as well. How often do you hear of the death of a person due to listeria infection?

Mr MAHONEY: For vulnerable people that are exposed to *Listeria monocytogenes* and get listeriosis, the death rate is somewhere between 20 and 25 per cent. So approximately 25 per cent of people that are vulnerable that get listeriosis unfortunately die as a result. That is why it is so significant. Our figures in Australia are typically 70 to 80 confirmed laboratory cases per annum. Last year it was only 50—it was a unique year—and this year it is down as well. But of those 70 to 80 typically that get sick each year approximately 25 per cent of those people die.

Because of the seriousness of the disease we estimate that probably we actually know about one in every two or maybe one in every three cases, because if an elderly person dies, typically they will demonstrate flu-like symptoms. It then becomes invasive to do things like post-mortems et cetera, so they do not necessarily always diagnose it. We feel that is the same also with pregnant women. If someone miscarries in the first trimester, it is quite invasive to do the testing, so often it will just be recorded as a miscarry and then it does not get investigated with laboratory samples.

So typically, if we have got 70 to 80 cases per annum, approximately 25 per cent of those die, but of those 70 to 80 cases per annum the true figure is probably closer to 200 cases per annum in Australia. And that is not large compared to, say, campylobacter, with 35 000 notified cases a year. But the issue here is that there is a very high death rate, and that is why we are concerned about listeria.

Ms VAGHELA: And in the presentation that you have mentioned, if they were investigated, were they always related to food that was supplied by a manufacturer? Do we have that sort of information?

Mr MAHONEY: Well, I mean, unfortunately probably Professor Sutton could have answered that question, but they will do diet histories of people. Now, the challenge is that you have got people who are elderly that are very ill. I mean, the challenge for us is, ‘What did we eat at the weekend?’, and you are asking someone what they ate for a period quite distant in the past and trying to remember it. And you know we eat a very broad diet. But what the epidemiologists do is they get these food histories and then they look at odds ratios to determine what the most likely food vehicle was. And it is quite difficult; you can certainly see that.

Ms LOVELL: I just wanted to ask: once listeria has established in a kitchen to a point where consuming food prepared in that kitchen would result in death, what percentage of people who consumed that food would you expect to become ill?

Mr MAHONEY: You would have to look at some of the probability diagrams for it. The probability of getting sick from a small exposure is quite low, the likelihood that you are going to get sick. But the point I made earlier is that we have had examples in recent times with very low numbers. If I quote the US study that looked at ice cream, we think of ice cream as a food that will not support the growth of listeria. It is frozen, so listeria will not grow. Many of the samples had less than 20, less than 10, *Listeria monocytogenes* per millilitre—very low numbers. But they made people sick—a small number of people sick—but people became sick and died. There were about I think five deaths across millions of litres of ice cream, but it showed that even small exposures to vulnerable people presents a health risk. That is why we are very—

Ms LOVELL: But multiple deaths?

Mr MAHONEY: In that case it was five deaths in the United States, yes. So that is not unusual. Often, as I said earlier, we do not necessarily follow up on why someone has died, because listeriosis presents initially as flu-like symptoms. It is quite a mild illness initially before it then crosses into the blood and then encephalitis and all sorts of other significant health issues occur as a result. That is a challenge. It goes back to the focus I said earlier on—making sure that your food premises is really on top of cleaning and sanitation and obviously hygienic handling.

Ms LOVELL: So you are saying it is not unusual that you would have multiple deaths from a very low presence of listeria in food. Now, the period of time between when the woman consumed the food and when the factory was closed is 33 days—21 January to 22 February; tens of thousands of meals were distributed, and not one single additional person was deemed to be ill from food consumed out of that factory. Do you think that that is unusual?

Mr MAHONEY: No, not at all. I obviously do not have full information and disclosure on this, but yes, we do get sporadic cases. It is only recently through whole genome sequencing that we have been able to track some of these isolated cases, and it can be just one. As Ms Crozier said, it can be just one bad contaminated sample that could cause the foodborne illness.

Ms LOVELL: Can you point to any other cases where a factory has been closed down based on one case of listeria?

Mr MAHONEY: Not in Australia but certainly in the United States. The regulators in the United States will close factories based on environmental sampling, not even cases of foodborne illness. So it does depend on the jurisdiction. I, again, cannot comment on this company in terms of what their track record is in terms of managing their environment, their food processing environment.

Ms SHING: Thank you for your evidence. I would like to understand the distinction between a listeria management plan on the one hand and environmental monitoring and the sorts of things you talked about with a cleaning and sanitation program on the other. It seems to me that a listeria management plan might well include environmental modelling of the kind that you have described?

Mr MAHONEY: Correct.

Ms SHING: Could you just talk me through the interaction between those sorts of management strategies, please?

Mr MAHONEY: Okay, so I mean at the highest level someone should have a food safety program in place, something which has met the requirements of the regulator or the responsible agency. In that will be procedures or what we call prerequisite programs that cover things like maintenance and staff training and cleaning and sanitation. Now, recognising that one of the significant hazards for a ready-to-eat food and a food that is going to a vulnerable population is listeria. That rings all of the alarm bells. So a listeria management plan, if you want to call it that, would involve a very comprehensive mapping of the premises to say where are the likely spots. We are talking about food contact surfaces as our prime concern and near, adjacent areas, to food contact surfaces. We typically zone food premises into four zones: so there are places outside, docking areas et cetera, zone 4; there are places which are closer to the premises, zone 3; then we have got these adjacent areas to food contact surfaces, zone 2; and food contact surfaces. So if you find listeria on a contact surface, like this bench or this table, we think of that as, if it is on that surface, it is probably on the food—it is more than likely on the food. So that is our—

The CHAIR: It was not found on the surfaces.

Mr MAHONEY: No, but—

Ms SHING: But if you have one clean set of samples from a kitchen, that does not mean that the entire kitchen is free of listeria, for the reasons that you have outlined, does it?

Mr MAHONEY: No, it does not. That is the challenge with microbiological sampling. You can test food products, but our probability of picking up contamination in a food product is infinitesimally small. We do it for

verification that we got it right, but it is an imperfect tool. What we are doing is prevention, so we are monitoring surfaces, we are monitoring adjacent areas to make sure that we are on top of it. And we are not necessarily always looking for *Listeria monocytogenes*; sometimes we are just swabbing surfaces and looking for the microbial load, because that gives us a sense of cleaning and sanitation.

Ms SHING: So in your view would a deep clean, to your understanding of what that means, remove listeria from surfaces in a kitchen and food preparation area if it were undertaken on a daily basis?

Mr MAHONEY: If it was done on a daily basis and if it was a properly constructed deep clean, you would feel very confident that they would be producing safe food from that point onwards, yes.

Ms SHING: Even where you had, for example, a resident listeria drain issue—

Mr MAHONEY: Yes.

Ms SHING: or pooling of water or something along those lines?

Mr MAHONEY: Well, yes, pooling of water is highly undesirable, and that creates a problem, but yes, we are able to manage these resident strains because, aside from moving to new premises, sometimes if listeria is in your plant, it is hidden away deep in drains or it could be in adjacent areas. When we look at food premises we are very concerned about how they maintain their environment. If they have got discarded equipment, if there is long grass, if there are animals that can be harboured in places adjacent, they are all things that signal to us poor management, poor food safety culture. So it comes down to culture in a lot of this. But if you were doing deep cleans each day and your environmental monitoring program was showing that you were clean, you would have considerable confidence and you would have confidence in the ability of those premises to produce a safe food product, but—

Ms SHING: Including in relation to removal of biofilm?

Mr MAHONEY: Well, a deep clean implies that you have got rid of biofilms, because—we have not touched on that—the thing with listeria is that it exists in films, and those films protect it. So deep cleaning is not just a cursory wash. It means scrubbing; it means approaches which will eliminate biofilms. Biofilms can exist everywhere. To give you an understanding of it, the little layer you get on your teeth at the end of the day is a biofilm. Biofilms live in all sorts of places, and they are very difficult to remove because they can be attached. There are a number of organisms that work together in fact in a symbiotic sort of way, and listeria can be protected in a biofilm, so you need to remove that biofilm. So in a lot of places we talk about doing typical washes every week with, say, sodium hydroxide, an alkaline detergent, but once a week doing a wash with an acid-based detergent to remove biofilms to protect—or to clean, I should say—and to make sure that you do not have biofilms, and then follow that up with a sanitiser.

Mr ERDOGAN: I think most of the questions I wanted to ask have already been asked previously. But just one question: what do you need to determine that an area is clean of listeria? How would you determine that it is clear of listeria?

Mr MAHONEY: Well, again, it comes back to doing swabbing, environmental monitoring, and doing it properly. So we talk about deep cleans. There are deep cleans and there are deep cleans, and there is swabbing and swabbing. Someone might just use a cotton bud as a swab, but to do it thoroughly we have sponges. There are all sorts of different proprietary swabbing things, but you want to be able to get into those deep surfaces. But also you want to swab a large area—one of the things we encourage in food companies—because we want you to find it. If it is there, we want you to find it. It is interesting: in the food industry no-one ever challenges a negative result. No-one has ever challenged a negative result. But as soon as they get a positive, they will say, ‘What caused that?’. We want you to swab as large an area as possible. So we drag swabs through a drain. We just do not swab a tiny bit of a drain; we will get a swab and we will drag it through because we are wanting to know if it is there. We want to know what microflora we have got there—whether it is listeria. And we have not talked about that, but one of the tests you do is you look for listeria species first up. And if we find listeria species, we know we have got an environment that *Listeria monocytogenes* can grow in. If its cousin is there, listeria can be there. I mean, the difference is that with listeria species, it is cheaper to go and confirm that it is; *Listeria monocytogenes* takes more analytical procedures and becomes more expensive. In the meat industry, in the meat manufacturing sector, they will test for listeria, and once they get a species they will then do a deep

clean. Now they have often got the advantage that they can use steam and heat to address the problem, but not all food industries can do that.

Mr ERDOGAN: I have got one more question, actually, that just came to mind. I think it might have been touched on by even some of the previous speakers. You talked about different categories of areas, like areas for outside et cetera, so does that mean that you need a clear separation of areas or a clear workflow to prevent the spread of this?

Mr MAHONEY: Absolutely. You need to separate. One of the factors often with food premises is you are stuck with what you have got. If you could design a new premises, you would have it very linear and you would have it coming in at one end—the raw materials. In fact, we could talk about dirty raw materials. You might have salad ingredients that you then put through sanitisers et cetera. You have got a linear flow, so at the end you have a clean product.

When it comes to ready-to-eat foods, and again for vulnerable populations, you would talk about high-care areas: that point where you are packaging the product. And you do not want your engineers, you do not want office staff walking through those areas. You should be designating zones in a plant where people can and cannot go. Now that is a luxury. Not everyone has that. But with people walking through plants, engineers tend to be a problem because they can be working outside in a drain and then coming into the plant. But you should be looking at separating zones. At the point where you are packaging a vulnerable product, a ready-to-eat food going to at-risk populations, that should be a high-care area, where people are dressed in a different way; hygiene is stepped up to a higher level to manage the potential risks there. When you have got, say, an infant formula plant and you are packaging food—powder for babies—the packaging step is a high-care area because you do not want any contamination in that area.

Dr KIEU: I would like to bring you back to the listeria management plan, given that it is very essential and important, particularly for a scaled production for vulnerable people. Could you, number one, list in a very short form what the plan might have in it? And secondly, in your experience with the dairy industry in particular have you ever come across some scaled production where a dairy producer has no plan, and what would your concerns be if there was no such plan in place?

Mr MAHONEY: So the first part of your question is the plan.

Dr KIEU: Yes.

Mr MAHONEY: And that would first of all start out with somebody going into the premises and mapping the premises, drawing a diagram of the premises and identifying those places where there is potential for contamination—food contact surfaces, the drains, there might be a coolroom that is used—identifying those areas and putting in place a swabbing program that identifies when you are going to swab and where you are going to swab. So it is not just one swab at one point in time. In fact the swabbing process becomes really important. It should be done at the end of the shift, not on clean equipment, particularly where you have got rollers, you have got conveyors, you have got packaging equipment. Listeria can live inside rollers, it can live inside bearings, it can be in gearboxes on pieces of equipment. So at the end of a day, when something has been working, it will come out at the end of a day rather than checking it once you have done a deep clean and sanitation. That is useless. Testing the product.

Now, the challenge for companies is that swabbing programs are seen as being a cost, whereas as far as I am concerned it is an investment in safety. You know, the question is: would you feed your grandmother these—would I feed my grandmother these food products?

So you would identify where you are going to swab. You might identify in a premises 25 different spots. Now, you would then set up a schedule that you would not measure 25 spots every time but you would measure five every week and you would over a period of five weeks go through those sites, or 10 samples depending on the criticality and the complexity of the process. And then you would record those results; you would not map those results. One of the great ways we find of tracing it is to see where the detections are: are they incoming raw materials or are they in a drain or are they in a piece of equipment? And you want to see, as I said earlier, you know where it is and be on top of it through your cleaning and sanitation. When it appears, shut everything down, halt production, hold product and do a thorough deep clean, and then start again.

Now, in the dairy industry there was an—the dairy industry is quite a mature industry. You know, it has had quality assurance programs in place since the 1920s. But we have had problems with plants where they have not been on top of it, and at the time when I worked for the dairy regulator my team would go in and support them. We would do a series of swabs, we would then give advice and assist them to develop their management plan to get them back on track. But of course if they did not, there was always the censure that they would lose their licence or they could be prosecuted.

Ms CROZIER: Just on that point, Mr Mahoney, Professor Sutton in his statement said that he was advised by the department that I Cook Foods supplied 10 Melbourne hospitals, eight council Meals on Wheels programs and two aged-care facilities—so we are talking about extremely vulnerable people—and that that was preparing approximately 7000 meals per week, and that listeria was known because the council had been making reports. You just spoke about the management plan that you would put in place, but they did not do any of that. They just came in and shut this organisation down. They informed, obviously, those people who were given this food. But it seems, in terms of the periods of time, from the time that the woman sadly died until the closure, there was an extended period of time.

You have just spoken about that management plan that you have put in place. Do you think in hindsight, in relation to the evidence we have heard and the discussions we have had today—and I am not sure if you have heard it all—whether the council acted too swiftly in putting in these reports without going through the processes that you have just spoken about, because I know that you were talking about standards but I think they were PrimeSafe standards, which do not apply to I Cook Foods or this organisation. They might apply to other industries that you have worked in. So in terms of your experience and knowledge, do you think therefore that there could have been a better process that needed to be undertaken?

Mr MAHONEY: Unfortunately, I was not here for those. I only came in just at 5 o'clock, so—

Ms CROZIER: Sure.

Mr MAHONEY: So I cannot talk about what happened before. And in terms of the performance or the work that the council did, I cannot comment.

Ms CROZIER: But you did a statement on it to the department, so what was that? Why did they want that?

Mr MAHONEY: The statement was about the management of *Listeria monocytogenes* in food manufacturing environments.

Ms CROZIER: Right.

Mr MAHONEY: And some subsidiary comment about some content on environmental monitoring, the code, the food standards code.

Ms CROZIER: So you were referring to a different standard, though, weren't you, a PrimeSafe standard, which does not apply to—

Mr MAHONEY: No, I am talking about the Australia New Zealand Food Standards Code—

Ms CROZIER: I beg your pardon.

Mr MAHONEY: and the requirement that if you are supplying foods to vulnerable populations, you have to have a food safety program in place consistent with chapter 3 of the Australia New Zealand Food Standards Code. That requires, essentially, a hazard analysis critical control point-based system for managing potential hazards in your premises.

Ms CROZIER: So if it has been in operation for—

The CHAIR: Thirty years.

Ms CROZIER: 30-odd years, this organisation, supplying food, it just seems slightly odd that it has been in operation for so long, it had had so many inspections from council, that it was known that there was this issue, that it had been supplying 7000 meals per week to very vulnerable communities—a very vulnerable cohort of

patients and people—and that there was this one instance. And the department gave various information to the department in quite sporadic ways, if I can say that—there were various reports over a period of time—and then bang, it was just shut down. Does that seem odd to you?

Mr MAHONEY: Again, I cannot comment on that process. What I would look at is as a manufacturer of food products you are obliged to meet the requirements of the Australia New Zealand Food Standards Code, as they are articulated: micro standards in chapter 1 and premises hygiene, training of employees, food safety plans according to chapter 3. And they should understand that very thoroughly. If they were doing environmental monitoring and they were finding problems with hygiene, they should have been addressing that.

Ms CROZIER: Is that those people that were inspecting, like the council, who was doing the regular inspecting, as well as the organisation?

Mr MAHONEY: I am talking about the organisation, the food company. At the highest level you need to be producing food which is safe and suitable. It would seem in this case that they have not met that requirement.

Ms VAGHELA: Mr Mahoney, we have got a submission from Professor Sutton, and it says that I Cook Foods had no listeria management plan. Does that surprise you?

Mr MAHONEY: Yes, it does, for the reasons I have just outlined—an understanding. I mean we talk now a lot about food safety culture—businesses understanding their obligations.

Ms VAGHELA: You also talk about zero tolerance for listeria. So then how many food manufacturing businesses are out there who probably do not have a listeria management plan, or if they do not have, then are the regulators, like councils, checking and doing the role that they are supposed to do?

Mr MAHONEY: Let me just go back to the zero tolerance. The zero tolerance is for foods that support the growth of listeria. For foods that do not, you are allowed that tolerance. Now, some of these products, I understand—for this company—are ready-to-eat foods. They have a shelf life of less than five days, in which case they are deemed to not support the growth of listeria under the code, and that means that they are allowed up to 100 listeria per gram in those foods for five consecutive samples.

To your question about how many companies, that is a challenge for food regulators—food standard setters, because there are many enterprises that do not understand or appreciate it. That is a reflection, to some extent, on the way we oversee the implementation of food standards in this country that companies do not understand the risks they have and do not understand what they need to do. So part of my role, which now is Head of Food Safety for the Produce Marketing Association in Australia, is to support the fresh produce sector, because we had recent instances with—as you alluded to earlier—listeria in rockmelons, and we have had issues with tampering. My role is to educate that sector of the industry about their food safety obligations and the potential hazards they face. So we have more to do in this space, most definitely.

Ms VAGHELA: Yes, because you gave the example of the US, where you said, in what I am understanding, they have stringent requirements in that sector, food manufacturing. So do you think we need to have stringent requirements over here?

Mr MAHONEY: I think we have stringent requirements. It is the uptake of those requirements which to some extent is lacking. The challenge there is not all sectors of the food industry in Australia have a dedicated oversight—have a regulator.

Ms CROZIER: Is that required in the *Food Act*?

Mr MAHONEY: Well, what I am alluding to is in Victoria, if you are in the dairy industry, you are licensed and overseen by Dairy Food Safety Victoria, or if you are a meat processor or a seafood processor, you are overseen by PrimeSafe. But then there are all the local government authorities which oversee, but they are also implementing the requirements of the *Food Act*, and that draws down the food standards code.

Ms CROZIER: But not in this instance? Those separate entities are under the *Food Act*, but does an organisation like—obviously they have got to comply, but in terms of what you are talking about, to Ms Vaghela?

Mr MAHONEY: I am not sure what you are—

Ms CROZIER: In terms of the standards that you were talking about—you are talking about the dairy industry, you are talking about specific industry sectors—the dairy industry or the meat industry et cetera—so they have got to comply with these standards, but in this instance, with a food manufacturer, do they have to have the same set of standards that you are referring to under the *Food Act*?

Mr MAHONEY: Yes. They have to meet the requirements of the food standards code.

Ms CROZIER: As you described the dairy and meat industry—are they the same standards?

Mr MAHONEY: Yes. In the food standards code there is a particular part of chapter 4 which deals with meat and seafood, and then under chapter 4.2.4 are the dairy requirements, which Dairy Food Safety implement.

Ms CROZIER: Correct, but that is specific to those industries.

Mr MAHONEY: Yes.

Ms CROZIER: So you are saying any food manufacturer, whether it is a cafe or an organisation like I Cook Foods, would have to meet those standards too under the act. Is that what you are saying?

Mr MAHONEY: Well, yes. They are required to meet the requirements of chapter 3, which talks about food businesses.

Ms CROZIER: Yes, I understand that.

Mr MAHONEY: And then chapter 4 is specifically because we have got what we call primary production and processing standards, through chain standards for seafood, for meat, for eggs, for poultry, for sprouts et cetera, but the requirements that pertain to these businesses are in chapter 3, which sets out food—

Ms CROZIER: Thank you. You have clarified that. That is quite different.

The CHAIR: Thank you, Mr Mahoney. That was really illuminating, and I am going to have nightmares about it this evening, I just know.

Dr KIEU: You are not afraid of COVID anymore!

The CHAIR: It swims, it walks, it lives everywhere. What colour is it?

Mr MAHONEY: I do not think it has a colour. I mean, when you grow it on a culture medium it has a colour related to the substrate. I have never been asked that question. It is a nasty bug, and it has got a fascinating history. We have known about it since the 1920s.

The CHAIR: Thank you so much for your information. It was a real wealth of knowledge that we really appreciate your sharing with the committee. You will receive a transcript from us. Check to see that we have not made any errors. Ultimately it will form part of our report, and certainly the information you provided us today will also form part of that report. Thank you again, and thank you, committee members. Thank you, everyone. I declare the meeting closed for the evening.

Committee adjourned.

Extract of proceedings

Legislative Council Standing Order 23.27(5) requires the Committee to include any division relating to the adoption of the of the draft report in the committee's final report to the Parliament. All Members have a deliberative vote. In the event of an equality of votes, the Chair also has a casting vote.

The Committee divided on the following questions during consideration of this report.

Questions agreed to without division are not recorded in these extracts.

Committee meeting: 27 July 2020

Ms Crozier moved—

1. That the Resolution of the Committee of 1 July 2020 that the Pitcher Partners report remain confidential to the Committee on the basis of its commercial-in-confidence status be read and rescinded; and
2. That the Pitcher Partners report be published by the Committee.

Question put.

The Committee divided.

Ayes (2)	Noes (4)
Ms Crozier	Ms Patten
Ms Lovell	Dr Kieu
	Ms Shing
	Ms Vaghela

Question defeated.

Ms Crozier moved, as an amendment to Finding 11: omit 'is not persuaded' and insert 'could not determine'.

Question put.

The Committee divided.

Ayes (3)	Noes (3)
Ms Crozier	Ms Shing
Ms Lovell	Dr Kieu
Ms Patten	Ms Vaghela

There being an equality of votes the Chair cast her vote with the Ayes.

Question agreed to.

Minority report

THE MINORITY REPORT

Legislative Council Standing Committee on Legal and Social Issues INQUIRY INTO THE CLOSURE OF I COOK FOODS PTY LTD.

The Liberal Nationals have held misgivings about the manner in which I Cook Foods (ICF) was closed since a series of troubling media reports in early 2019. One matter of concern was the relationship of both the City of Greater Dandenong Council and the State Government to Community Chef, a direct competitor of ICF. As the committee heard, during the process to close ICF both the council and the government were funders of Community Chef, and the Chief Executive Officer of the council was a member of its Board of Directors.

These particular matters were able to be broached with witnesses during committee hearings, and therefore are dealt with in the majority report. However, and regrettably, further noteworthy and important evidence was only provided to the committee once its hearings had ceased. Thus, it now requires further investigation.

In 2018 Pitcher Partners Consulting Pty Ltd was engaged by the Department of Health and Human Services (DHHS) to provide a report about Community Chef. The Liberal Nationals, through the parliament, sought this report from the government. However, access was denied. It was only provided, finally, under privilege to the committee. It shows, as we suspected, that Community Chef was in a parlous financial position. Consequently, the report also contains a series of recommendations to government regarding additional substantial support for Community Chef. This is important as witnesses before the committee claimed that one of the reasons for the closure of ICF was to enable Community Chef to take a greater share of the market in which they both operated.

This evidence underscores our existing concerns about the very poor financial position of Community Chef. However, the committee had insufficient time to consider the Pitcher Partners report in depth and was unable to question any witnesses about its contents. The committee also failed to agree to make the report public. As a result, the Liberal Nationals believe consideration should be given to further investigation of this matter.

RECOMMENDATION

That an agency external to government, with investigative powers, consider further examination of the serious allegations of impropriety by both the City of Greater Dandenong Council and the State Government in light of the Pitcher Partners report.



Ms Georgie Crozier MLC, Member for Southern Metropolitan Region



The Hon. Ms Wendy Lovell MLC, Member for Northern Victoria Region



Dr Matthew Bach MLC, Member for Eastern Metropolitan Region

