

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the Closure of I Cook Foods Pty Limited

Melbourne—Wednesday, 25 August 2021

MEMBERS

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Dr Tien Kieu—Deputy Chair

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Mr Stuart Grimley

Mr David Limbrick

Mr Edward O'Donohue

Mr Tim Quilty

Dr Samantha Ratnam

Ms Harriet Shing

Mr Lee Tarlamis

Ms Sheena Watt

WITNESSES (*via videoconference*)

Mr Ian Cook, Director, I Cook Foods; and

Mr Paul Brady, former Victoria Police detective sergeant.

The CHAIR: Welcome back, everyone. Apologies if I gave you a start with the wrong time when we finished the previous session. This is the Legislative Council Legal and Social Issues Committee's public hearing for the Inquiry into the Closure of I Cook Foods Pty Ltd.

I am very pleased that we have with us for this hearing Mr Ian Cook, the owner of I Cook Foods, and his colleague, Mr Paul Brady.

Mr Brady and Mr Cook, if I could just let you know that all evidence taken is protected by parliamentary privilege, and this is provided under our *Constitution Act* but also the standing orders of our Legislative Council. This means that any information you provide during this hearing is protected by law. You are protected against any action for what you say in this hearing, but if you were to go elsewhere and repeat the same thing you may not have the same protection. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

I am Fiona Patten, the Chair. With me today are Dr Tien Kieu, the Deputy Chair; Ms Georgie Crozier; Ms Kaushaliya Vaghela; Mr David Limbrick; Ms Wendy Lovell; Mr Craig Ondarchie; Ms Sheena Watt; and Dr Matthew Bach.

This is being recorded, and of course you will receive a transcript in due course.

If you would like to make some opening remarks, Mr Cook or Mr Brady, then I will open it up to a committee discussion. But again, thank you for your time.

Just for those at home, just to clarify, you are in a place that has very large density limits, and you and Mr Brady are operating in a very COVID-safe way in that office, just in case anyone was concerned about your personal safety.

But thank you, Mr Cook and Mr Brady, for joining us, and we can start with some opening remarks from you and then we will open up for the committee discussion.

Mr COOK: No problem. Thank you, Ms Patten. Thank you for giving me the opportunity to address the committee today. The reopening of this inquiry happened because new evidence has come to light that clearly shows that this committee was misled and at times, it now appears, deliberately lied to.

On 24 June 2020, I sat and listened in the committee room to what seemed to be provable lies told by John Bennie, Leanne Johnson, Elizabeth Garlick and Jody Bosman, all from the City of Greater Dandenong. Evidence found since that day has only made these more stark and easier to prove. The same is true of things told to this committee by Dr Brett Sutton and Dr Angela Bone.

That day was one of the most difficult days of my life. I had to listen to misrepresentations and what clearly seemed to me to be lies from people in positions of trust that we should be able to rely on and respect. Throughout that day I could not stop thinking about the 41 jobs that were deliberately destroyed along with my business. Those jobs belonged to incredibly good people who did not deserve to have their lives and their families' lives destroyed by corruption.

I specifically want to address key statements made to the committee by Dr Brett Sutton. Dr Sutton closed I Cook Foods using the *Food Act*. He did not use *Public Health and Wellbeing Act*. He told this inquiry that Kym Peake, the former secretary, had delegated this power under section 19. But the law just simply does not allow for this, so even the closure order was made unlawfully.

Now, I did not know Dr Sutton when he closed our business down. Nobody did. He was the newly appointed acting Chief Health Officer. Most Victorians had not heard of him. So when Victoria Police Detective Sergeant Ash Penry carried out the first police investigation into crimes surrounding the destruction of our business, no-

one at Victoria Police or Spring Street was overly concerned that Detective Sergeant Ash Penry named Dr Brett Sutton as a person of interest in relation to those crimes. But then the pandemic hit us all, and suddenly the Victorian government's political survival relied on Dr Sutton, on his survival, and so everything changed.

That is when Detective Sergeant Ash Penry was suddenly taken off the investigation. It was reassigned and then reassigned again and then reassigned again. This went on for almost two years. Finally, the investigation was killed off, only to be reopened by the persistence of a small team of volunteers who have helped I Cook Foods fight for justice, as well as inspiring journalism from the *Herald Sun*; the ABC; 3AW; channels 7, 9 and 10; the *Age*; and numerous podcasts. Now, thanks to the intervention of Chief Commissioner Shane Patton, the investigation into the crime surrounding the closure of I Cook Foods has reopened, and I try to maintain my faith in Victoria Police. I need to believe that VicPol will now focus on the police work and leave the politics to others. Through all of this I have been forced to watch Dr Brett Sutton, a man who I maintain lied and destroyed my business and who Detective Ash Penry calls a person of interest in serious crimes, being given unfettered powers to lock up 6.4 million Victorians. You can understand how concerned I have been for Victorians during the last 18 months. I strongly believe this government is running a protection racket for Dr Sutton. This needs to stop, regardless of the pandemic. I also understand from media reports that the minister who oversaw the destruction of I Cook Foods is reluctant to appear. I believe this is showing contempt to this inquiry. I hope she appears somehow.

Since the first hearings of this public inquiry more evidence has come to light, which I would like to share with you now. No-one knows this, and I am pretty sure I was not meant to know this either. I am not going to name the company I am about to speak of, but I am happy to provide this evidence to the committee privately with the consent of those involved. You see, good people who were directly involved in what I am about to discuss reached out to me and shared this evidence because they saw the lies being told about I Cook Foods and they could not stand it.

Recently Victoria's health department opened an investigation into the death of an elderly man who had contracted listeriosis. Now remember, there is now unequivocal proof that I Cook Foods had nothing to do with the death of Ms Painter. We did not kill anyone. The Department of Health and Human Services knew this before they closed us. The City of Greater Dandenong were informed shortly after and still proceeded to charge me. But in this recent case health officials investigated this elderly man's home and took samples of meals that were produced by a company that produces and makes Meals on Wheels meals. The samples that were taken tested positive for *monocytogenes* Listeria. The department then contacted the local environmental health officer and asked that officer to investigate the company that provided the meal. The EHO took further samples and swabs of the business's kitchen. A total of five swabs tested positive for *Listeria mono*, with at least two different genome sequences.

So what happened? Did Dr Brett Sutton do a press conference naming and destroying this business? Were 96 false charges laid against this business and its owner? Did the state government spend the next two years lying about this business? No, none of these things happened to the second business. Instead, the owner of this second business was recently contacted by their local environmental health officer and told, 'Case closed. No more investigation'. Now, the business did actually provide a meal to the elderly man that contained Listeria. We never did. My business has never contributed to the death of anyone.

So why the double standard? Why was I Cook Foods treated so differently to the other business? Well, evidence is now before the committee that shows we were treated differently because we were a commercial rival to the business that was run by the very council that was involved in closing us down. How can a council be allowed to regulate a commercial rival? As I said last time, it is like giving Hungry Jack's the power to close down McDonald's and take all their customers.

In his media conference on the afternoon of 22 February 2019 Dr Sutton named and destroyed I Cook Foods. He claimed he was acting out of an abundance of caution to protect thousands of elderly people that might be at risk. Well, where were you two weeks ago, Dr Sutton—or were you acting out of malice when you killed off I Cook Foods and not an abundance of caution? Ms Painter did not eat any foods from I Cook Foods.

We never should have ended up here, and yet we are back here going over this again. Why? Well, for one thing, Victoria Police is yet to lay a single charge. They assure me their commitment to the law is pure, and I take them at their word, but this committee has been reopened to investigate a different crime: the crime of

lying to Parliament, and as you all know it is a crime. Here is the thing that many people seem to forget: when a witness lies to a parliamentary inquiry they are also lying to every single Victorian whose lives are affected by the decisions made by the Parliament. People need to be able to believe in Parliament. Therefore there must be consequences when witnesses knowingly and deliberately lie to and mislead under oath people like yourselves. If we do not honour the truth and protect it and defend it, and fight for it when we have lost it, how can we ask our kids or ourselves to believe in anything?

I respectfully ask that you bring me back before the inquiry once Dr Sutton and others have given evidence so I can immediately point out if other falsehoods have been made before you all. Thank you for listening and thank you very much for reopening this inquiry.

The CHAIR: Thank you, Mr Cook. As you know, we make it very clear, as I stated to you, any deliberately false evidence or misleading of committee can be considered a contempt of Parliament. So we will let that take its course. Thank you again for appearing before the committee and, yes, certainly, we have reopened in light of new evidence. On the 22nd Mr Christy sent emails to DHHS, which would have been the day after Mr Sutton had signed that closure notice for you.

I just want to go back to the start—and I asked Mr Christy this as well. Given your experience in the food industry, given your experience as a supplier of food for special needs, why weren't the hospital's kitchens investigated at the beginning, at the time when there was a concern that the patient may have eaten something that—well, ultimately, that may have been contributing to her death? Why was it that they immediately went to you?

Mr COOK: That is a very good question: why did they come directly to us? Why did they never inspect the hospital straightaway? It was known that the hospital had its own food service and produced its own products as well from ingredients it purchased in elsewhere. It seems very strange to me that they would home in on just us.

The CHAIR: Now, I know this was particularly difficult at the time, but when you saw the photographs that Ms Garlick and Ms Johnson presented to the committee—let us put aside the slug photo for a moment because I think we have all become quite confident that that was doctored. But some of the other photos were presenting your business as a business in disrepair, as a business that there were health concerns about, and they were quite firm in raising that when they gave evidence the last time. Would you explain for the committee how, in your opinion, that misrepresented the inspection that was undertaken.

Mr COOK: Okay, so let us deal with something that came up with previous other witnesses about the water pooling. That was where Dr Angela Bone in the last committee said that the floor had to be completely re-laid before they could open it. Number one, the only person that ever took photos of water pooling at I Cook Foods was Elizabeth Garlick, and she took them while we were in clean-down. I have her on our CCTV footage where when I have an employee who was literally washing the floor down, because we cover it with water and chlorine every afternoon—she was washing it down. Elizabeth Garlick races around her to get a photo of her putting the water on the floor. That photo was used in the charge of allowing water to pool in my factory. If that is the case, you are going to have to close down every manufacturer in the state who washes their floor in an afternoon. It was blatant perjury. So Rogerson was right. She manipulates the camera and she sets stuff up. She takes photos of us—middle of clean down, of wash down. She shows you a sink with a heap of trays in it—they were washing them.

Now, on the issue of the flooring, two things. One: every year at Easter we need to let the floor dry out before we recoat it with paint. That happens every year. They closed us down just prior to what we would do every year, because floors wear. I have to have a surface on it that stops people slipping so that I do not hurt people at work, and I also need to seal it so that it can be cleaned, get washed down—everything done like that. Now, Angela Bone said I could not be reopened until the floor had been completely redone. She actually used the word 'complete', as in completely re-laid—what she said. If anyone would like to come down and see it, my floor is exactly the same, exactly the same condition, exactly everything. It was never re-laid, but they reopened me. All that happened was it got its annual painting.

The CHAIR: Right. Prior to this event were there indications that the council or Community Chef were trying to enter into some fairly heavy competition with your company?

Mr COOK: Because Community Chef had so many exemptions from tender and other processes, we really did not know what they were doing at the time. We only found out what Community Chef had been up to after we had been closed, when we were able to get all their board papers and their risk assessments. It was only then that we realised the things we were doing were having a serious impact on contracts they thought they would win.

The CHAIR: Okay. Thank you, Mr Cook. I will turn to Deputy Chair, Dr Kieu.

Dr KIEU: Thank you, Chair. Thank you, Mr Cook, for appearing before the committee again. I heard that you mentioned something about the Chief Health Officer, Brett Sutton, his integrity and his authority, and I also note that you mentioned a very recent case about a man dying. I personally do not know much about that, except from the *Herald Sun* this morning. The only thing that stands out from the *Herald Sun* about that case is that there was no genomic link. But anyway, this is not the focus of this committee hearing. This is about I Cook and about new evidence. So going back to when I Cook was ordered to close down—I presume that was only temporarily until some so-called problems were fixed—were you given any opportunity by the council or by the Department of Health and Human Services in order to rectify the so-called problems?

Mr COOK: Could you repeat the last parts of that question, please, Dr Kieu?

Dr KIEU: Yes. Were you given any opportunities after I Cook was closed down in order to reopen it again, and what actions have you taken following the closure?

Mr COOK: Okay. So we were kept closed for nearly a month, and that was by collusion between an independent authorised auditor, Pauline Maloney of the Department of Health and Human Services, and Leanne Johnson. They colluded to keep us shut. That is why there is a Supreme Court action against Gavin Buckett, the auditor involved, because I have it in writing.

Dr KIEU: So you were not given an opportunity to rectify or to do anything just to have the business open again?

Mr COOK: Dr Kieu, none of the things that I did or could have done was going to satisfy them. Number two: I was ordered to do a sampling plan, under section 4.2.3, which is in chapter 4 of—I am just going to find it for you—Food Standards Australia. The only person in Victoria who can enforce chapter 4 is the secretary to the department of primary industry, okay? And you were asking about Listeria. Let us clean a couple of things up. There were not four strains of Listeria found in our premises; there were two strains found, on corned beef and ham, end of story. The lab broke up the samples that would have cross-contaminated each other and managed to get a couple of other samples but only two strains. We tried desperately to comply with standard 4.2.3, but that was a completely unlawful thing to force upon us. Our food safety plan covers all pathogens, not just Listeria. That particular standard is for a Listeria management plan. Everybody that mentions it to you people is lying to you. There is no Listeria management plan on its own for people like us. We have to deal with E. coli, salmonella, coliforms—a whole range. They all die with heat, they all die with chlorine and they can all poison people, which is why our food safety plan covers the whole lot. So we need to get some facts straight here. In fact, the problem with—when I was listening before—some of the questions you people have been forced to ask is you are relying on what you were told at the last hearing. Well, I have got news for you: at the last hearing people lied to you.

Dr KIEU: We can only act on what we have been given and know. Just quickly before my time runs out: I believe that you have a court action against certain entities and also some police statements that you have made in view of the investigation now being open. If you think they are relevant, could you provide it for us, as the committee?

Mr COOK: How do you mean provide it, Dr Kieu? What would you like me to provide, the statement of claim?

Dr KIEU: The statement, just like Mr Christy provided us with his, not just one—

Mr COOK: I am sorry. Yes, I can send you my police statement. I can also send you the statement of claim for the Supreme Court actions, both of them.

The CHAIR: Thank you, Mr Cook. Ms Crozier.

Ms CROZIER: Thank you very much, Chair, and thank you, Mr Cook, for appearing before the inquiry again. I know this is incredibly difficult after everything that you have gone through, and I just want to put on record the tenacity and resolve that you have had in getting to the bottom of this. Can I go to the point you made around the police investigations. I think it was Ash Penry who did the first investigation, who you said had named Dr Brett Sutton as a person of interest. Now we have got a fourth police investigation into this issue. Am I correct in saying that?

Mr COOK: Yes, basically. So Ash Penry was the one. He and Detective Rick Mokos would have spent maybe 7 hours here in our offices going through evidence with us. So they were across it all; they really understood what was going on. In fact, while they were here they were quoting the crimes that these people had committed as they did it. Now, remember, none of this is hearsay and none of this is circumstantial. The evidence that is against these people is by their own words. They hanged themselves. This is compelling, direct evidence.

Ms CROZIER: Yes, I understand that. I just want to go to the point that I made. How many police investigations have been undertaken into the closure of your business and what you are trying to [Zoom dropout] criminal charges brought against you?

Mr COOK: Okay. So there are four, including the review that Patton organised.

Ms CROZIER: Okay. So four police investigations. So could you tell the committee what the police from the first investigation, which you have just briefly done, about what Ash Penry has told you—why are we having four investigations into the closure of your business, four police investigations?

Mr COOK: Because it is a political hot potato. Nobody wants to touch it. And so while we get told that during this pandemic that no-one is above the law and people can be locked up or fined thousands and thousands of dollars just for not wearing a face mask, well, I can assure you the crimes against I Cook Foods and its employees amount to extremely serious crimes, some of the most serious on the statutes, and it would appear some people are above the law.

Ms CROZIER: So on this very point, four police investigations and some very serious crimes, and yet we have not got a conclusion. Have you been given any indication from police about where they are in relation to their investigations and their findings on this matter?

Mr COOK: The answer is no. The detective in charge has given an indication that he does not expect it to go on for a long time, but I do not have a time frame. They just will not tell us.

Ms CROZIER: Well, you have been fighting this for two years. Sorry, when did the first investigation commence?

Mr COOK: I made my first complaint in November 2019.

Ms CROZIER: November 2019, and we are now mid-August 2021 and the police cannot tell you when this is going to conclude?

Mr COOK: No.

Ms CROZIER: Have you got any indication why that is the case?

Mr COOK: No. You know, recently we were contacted by retired police commissioner Kel Glare. He is astonished, and if anybody would know—

Ms CROZIER: What do you mean by astonished?

Mr COOK: Well, he has looked at the evidence and he said there is compelling, clear evidence of criminal offences and that people should be charged and should face the courts. Remember, it is not up to the police to come up with beyond reasonable doubt. That is up to the courts to decide. What the police have to do is say, 'Is

there a prima facie case'? Prima facie just means 'on the face of it'. If you cannot see that this is on the face of it, then you possibly should not be a police officer.

The CHAIR: Thank you. Mr Limbrick.

Mr LIMBRICK: Thank you, Chair, and thank you, Mr Cook, again, for appearing today. I acknowledge how hard this has been for you over the last few years. My first question: this abundance of caution that you mentioned, we have heard this many times and it often results in destruction. Where did you think this abundance of caution came from, and do think it was justified?

Mr COOK: I think that motherhood phrase that Dr Sutton used was his justification for him doing what he was doing. The question is: why did he want to do it? Why was he so dead keen to close us, and why were Elizabeth Garlick and Leanne Johnson so keen to make sure that they gave a whole lot of false and misleading reports?

Mr LIMBRICK: And why do you think that is?

Mr COOK: Well, having read the board papers of Community Chef, there is a compelling argument to show that having us out of the way would be advantageous to them. And so John Bennie, the very next day—the day we were closed—takes the information and trades on it with them.

Mr LIMBRICK: And ultimately who do you believe should be held responsible for everything that has happened to you here, if all this turned out to be true? We have heard some very disturbing evidence this morning from our witnesses, including you. Ultimately who is responsible here?

Mr COOK: In terms of our closure, ultimately Dr Sutton is the one responsible. The buck stops with him. And you know what? He knew, not just that the woman did not eat any of our food, but he knew that there were six other food suppliers to that hospital. In his statement to the committee he says I was the sole supplier. That is a blatant lie. He knows I was not the sole supplier, unless of course he gets what I call 'Coate amnesia'.

Mr LIMBRICK: Yes, we saw evidence this morning of all the suppliers and what they supplied and the ingredients on the menu, so it is quite clear that you were not the sole supplier from the evidence that we have seen. I think I am probably close to being out of time, so thank you.

Mr COOK: Can I just make one comment on that?

Mr LIMBRICK: Yes.

Mr COOK: When they talked about the special diets et cetera, let us be crystal clear: I have worked in house in that hospital for weeks on end. The special diets are done by one single individual. There is no making mistakes. That person specifically gets the menu cards off anyone who is on a special diet. The reason they have just one person doing it is to make sure that it is checked and double checked and that they do not mix up with normal full-ward diets. So if that woman was on that diet, that is all she got, and to be clear to everybody else who is sitting there about, 'Should you give sandwiches to this cohort, that cohort': that had nothing to do with I Cook Foods. I Cook Foods were given a very specific set of things to manufacture for that hospital, and that hospital knows what the health department say about the protocols for giving high-risk foods to immunocompromised people. I have no control. I am not feeding the patient. The hospital does that.

The CHAIR: Thank you, Mr Cook. Ms Vaghela.

Ms VAGHELA: Thanks, Chair, and thanks, Mr Brady and Mr Cook, for your time today. Mr Cook, the City of Greater Dandenong has provided the evidence listing at least 13 different food safety notifications issued to them by other councils about I Cook between 2016 and 2018, and that included notifications of foreign objects in food items and three separate notifications of samples testing positive for both *Listeria* and *Listeria mono*. Can you please explain what actions you took to rectify these issues and avoid being subjected to a closure at that time?

Mr COOK: All right, Ms Vaghela. At the last inquiry this came up because that was the testimony of John Bennie. I have written to the committee. I suggest you get the paperwork out and have a look at it, because it is crystal clear that he misled you and in some cases directly lied to you about it. If I deal with all 13, we will be

here for a while. The very first one on that list that you are describing was a stone found in rice. Now, what he has done is he has pulled down what is called the 'merit system'. Merit, by its definition, is something that needs further investigation to decide whether a punishment or a compliment or further investigation should happen. That is why they call it the merit system. Now, that rice that had a stone in it: the rice came from Riviana. We cook it in bulk. We found the stone. It was also found by one of our customers in Ballarat. We organised the recall. We were complimented on the recall and we have letters to show from Riviana that it was their fault. They paid for the whole recall. So Mr Bennie giving that to you and saying that was a complaint that we somehow were going to damage someone's teeth with a stone was just a complete misleading, and he needs to be hauled over the coals about that. I can step you through all of those. Listeria turns up. Breadwinner, a sandwich manufacturer over here, had Listeria turn up just prior to—about five years ago—the Boxing Day Test. They were about to issue 7000 sandwiches. The then manager of health at Dandenong would not close the place down because that meant the sandwiches would not go to the Boxing Day Test. So it turns up—we have to manage it and manage the risks and do everything properly. As they pointed out, we have a full pathogen food safety plan in our ISO 22000 that covers all of these things, as does every other food manufacturer in this area.

Ms VAGHELA: Yes. You mentioned that this time it did not matter what you did or what actions you took to rectify it, it was not going to be enough. Why do you say that? All these instances were listed and you were able to rectify those in the past. Why do you say that this time it does not matter what you did? What is it?

Mr COOK: If I understand your question correctly—

Ms VAGHELA: After the closure you were not able to reopen because there were instances of Listeria in the past, and you were able to rectify those issues that were listed over there. But this time when the list was given you said that it did not matter what you did, what steps you took to rectify it, it was never going to be enough.

Mr COOK: You are right. It did not matter what we did.

Ms VAGHELA: But why?

Mr COOK: No, no, no. Pauline Maloney from the Department of Health and Human Services, Gavin Buckett and Leanne Johnson conspired to keep us closed. You know what? I will check. If it is allowable, I will send you all of the discovery. I mean, we now have the discovery of all of this. We got a heap of it also with freedom of information, and it clearly shows that they were conspiring.

Ms VAGHELA: So you wanted to reopen but there was no way that they would allow you to reopen—is that what you are saying?

Mr COOK: That is correct. Look, you are dealing with Listeria. Remember: at the last inquiry you had Maloney at the end of the day say, 'Oh, well, you know, once it's in the system it can be there for 10 years and it'll keep showing up'. You had Dr Sutton talking as if Listeria was in the factory on surfaces. No, it was not. It was in bought-in products. Close me, then go and close Coles, close Woolworths, close anybody that is selling those smallgoods.

The CHAIR: Sorry, Mr Cook. I want to make sure that all the members get a chance to contribute and ask questions.

Ms VAGHELA: Thank you. I will come back in the second round.

Ms CROZIER: Chair, can I just ask that Mr Cook provide those documents that he has offered to the committee, please?

The CHAIR: Yes. Thank you. Whatever you are able to provide to the committee would be welcomed.

Mr COOK: Yes, we will.

The CHAIR: Thank you, Mr Cook.

Mr COOK: No problem.

The CHAIR: Ms Lovell.

Ms LOVELL: Thank you, Mr Cook. This morning Kim Rogerson told us that, in her opinion, there was pressure to close I Cook Foods that was coming from the very highest levels at the City of Greater Dandenong, right up to the CEO, and also from outside sources, including the department of health and Community Chef. Why do you think the CEO, the department of health and Community Chef were pressuring officers within the City of Greater Dandenong to close I Cook Foods?

Mr COOK: The simple answer is they were going broke. They had not made a profit in 10 years.

Ms LOVELL: Sorry, are you saying—who are ‘they’?

Mr COOK: Community Chef. By the way, factually I can step you through all the facts. Now, those facts become what you might call ‘the dots’. When you line them all up together they make a very compelling case for engineering the closing of us. Community Chef wanted to get into the health system. They wanted to get into the health system using texture-modified food. They saw that as their big opportunity. Once they are in the health system, then what happens is they get free money all the time. They effectively become funded just like, you know, any other hospital kitchen, so they do not have to keep going and asking for it.

Now, we had just patented our process for texture modified. It was about to go into the public health system, and then all of a sudden the tender for it was pulled, and we know that it is at exactly this time Community Chef are desperate to get in with that as their leverage to get in.

Ms LOVELL: Thank you. Also Ray Christy told us this morning that when he asked the Knox hospital for the history of the patient’s diet there had been no records kept of the history of that patient’s diet. Is that normal practice within hospitals—that for someone who is on a special diet like a soft diet they do not keep the record of their history?

Mr COOK: Okay. So there are two records that are kept in the hospital. One is the medical record. So they have a computer system and a specific program that covers off everything to do with the patient while the patient is in hospital. That will include what diet they were on, whether it be a full ward diet—where they choose from everything—or a restricted diet. So it could be nil by mouth, it could be a soft diet, it could be a low residue diet et cetera. In this case what will have happened is the infection control coordinator that spoke to Christy, that is Cullen, and her offsider would have gone back to that computer system to find out what diet the lady was on. That is how they know she was on a soft diet. So that you have as a fact.

What you do not have is the menu card, which is a slip of paper. That hospital does not run a computer system, which a lot of hospitals do now run, that actually says what they actually ate. What they know is she would only have been offered from the soft food diet, and you have a copy of that. Now, the soft food diet also includes what we call ‘mechanically soft’, which is sandwiches, fresh bread, crusts cut off. Because of the nature of that product it was always made by the person doing diets in house on the day.

So, this strip of paper gets discarded. No, it should not. We actually said it to them at the time, when we helped them with the establishment of their new kitchen. We suggested that they should keep those, but they said no, it was too much paper; they were going to introduce a computer system. I do not know if that has happened yet.

Ms LOVELL: Thanks very much. Also, I am really fascinated by your food modification technology. Are you able to tell us when you first implemented that? You said you were about to roll it out, but when did you first—

The CHAIR: I am sorry, Ms Lovell. You have given him 4 seconds to answer that question. Hopefully we will have time to come back to it, Mr Cook. If I could go to Ms Watt, please.

Ms WATT: Thank you, Chair, and thank you, Mr Cook, for appearing before us today and for your very fulsome opening remarks, and particularly to one of the questions that just was answered by you. You spoke about an ISO standard—was it 22000—that you are a signatory to; you meet that standard. It did then get me thinking about which other Australian standards your manufacturing plant is adhering to. And then with that would be—how do I put this—the food safety program that you need to establish, which I am assuming forms part of the standard, and the processes that fall under that standard. I just wonder: how do you develop them? Is

this something that you have done entirely in house? Are you doing this in partnership with a third-party organisation, a peak body? How is it that you came to the development of your food safety program, compliant with relevant standards?

Mr COOK: Okay. ISO stands for ‘international standard’, so it is above an Australian standard. Years ago we employed a company to come and help us get our first HACCP program underway, and then, when we wanted to go from HACCP to ISO 22000, we got another consultant in who specialised in that area, and they helped us develop that. The ongoing maintenance of it was done by my son, Benjamin Cook. Now, Ben has SAI Global’s auditing standard—national auditing standard class 4, I think, is the right terminology. He studied that and finished it, and he has that as a qualification, which means he has the same qualification as any of the department’s independent auditors. And he specialised in looking after our food safety program and making sure that it was up to date all of the time.

Ms WATT: Sorry, this is Ben Cook?

Mr COOK: Correct.

Ms WATT: I had noted in the original inquiry that your nominated food safety supervisor was Michael Cook.

Mr COOK: We had two.

Ms WATT: Two, right. And he was appointed despite not having appropriate qualifications. Were those qualifications in—

Mr COOK: Can I—no, no, no, no. Hang on, hang on. No, no, no. I need to stop you right there.

Ms WATT: Can you talk to me about the qualifications, then, or training or otherwise of your food safety supervisor?

Mr COOK: Yes. So let us get to the training. When people come and they are employed here, they need to have a food handlers. If they do not have it, we put them through the course. We put all of our people through the course. To be absolutely crystal clear, all of our about 20 full-time employees had a refresher course every year. We do not have to do that. So that is that. So that is all the people handling food out there in the factory.

Now, let us go to the qualifications. Michael Cook and Ben Cook also have food safety supervisor qualifications for a manufacturing plant. That is the minimum requirement. Now, we have more than that, but that is the minimum requirement. We have that. Last year Dandenong city council tried to stop me from producing the few small orders that we got back in, and they tried to stop us from doing anything by saying that our food safety supervisor certifications were not appropriate to our industry. So I put an application in to the Magistrates Court of Dandenong under the Act to have that decision overturned. They threatened me with thousands and thousands of dollars in costs if I pursued the matter. I said, ‘Tough luck. I’m going to pursue it’. I pursued the matter. I also took an injunction against them. The day before the injunction was to be heard—so, like, the day finished at 5—at 4 o’clock we got notification from the City of Greater Dandenong through its lawyers: ‘Well, yes, you’re right. We’re wrong’. They did not want to go to court.

The CHAIR: Thank you.

Ms WATT: I assume my time is up. Is that right, Chair?

The CHAIR: Yes, thank you, Ms Watt. The Deputy Chair, Dr Kieu.

Dr KIEU: Thank you, Chair. Now, coming back to the 96 charges that the City of Greater Dandenong first put out and now have been withdrawn, have you seen the charges? And do you think they are all inappropriate, or are there any elements in there that are worthwhile in relation to the safety of the food handling at your place?

Mr COOK: All of those charges—every single one of them—were fabricated. All of them were withdrawn because of that. On 3 October 2019 I walked into Dandenong Magistrates Court. Two hours later I was taken outside by my lawyer and told, ‘They’re going to offer to withdraw all the charges except four of them’—the

first two on each company, and me, and they wanted to change a couple into infringement notices. I said, 'No, we're not changing any into infringement notices. I can stop that. We'll go and see the magistrate'. I said, 'I can't stop them withdrawing charges'. Anyway, we were supposed to then walk into the court. Another hour goes past, and then all of a sudden I am pulled aside again by my lawyers, and they say, 'Okay, well, they're going to withdraw all of the charges now'. And I said, 'Oh, okay'. He said, 'But they would like a non-disparagement clause'. And I said, 'What, I can't talk to anyone—the press or anyone—about this?'. He said, 'That's pretty much what they would like, and they'll withdraw all the charges'. I said, 'In which case tell them to leave all the charges. We'll go back into court'. In the end there was no non-disparagement clause signed. There was nothing signed. They withdrew all of the charges because they knew the charges were bogus.

And to sit and tell you, the committee, that these were valid charges and the reason they did not proceed was \$1.2 million—well, first they told the ABC on the afternoon the charges were withdrawn that the reason they did not proceed was that I was now compliant. And then they told the local paper a few weeks after that that it was going to cost \$500 000. And then when they came and saw your committee, they told you it was going to cost \$1.2 million. Turns out, as long as you have got money and promise never to do it again, you can get off anything in the city of Dandenong. That is just rubbish.

Dr KIEU: Now, we have been told there were four strains of *Listeria* found, and you are now telling us there were only two strains. Is it true that one of the strains is related, or closely related, to the one found in the deceased?

Mr COOK: On that issue, that was the corned beef. The corned beef was a national product. The other misleading that happened to you as a committee was this: when you were trying to question the Doherty Institute, they misled you. The document they were holding—we could see it on the video when we watched it; you could see that they had all of the detail that was taken off. The document you had was the one I was given, which effectively had been doctored, okay. So what you are saying, Dr Kieu, was apparently the corned beef had the same genome sequencing as the woman. So you say, 'Okay, does that link it to I Cook Foods?'. Well, that would be possible if it was only from me. The other thing they told you was that it was the only one of its kind in a non-human sample. Well, that is because our food was the only thing that had been tested. What they did not tell you is exactly the same genome sequencing occurred twice in Queensland and once with a slightly different binary in Western Australia—from that report. You were bamboozled with science.

Dr KIEU: Okay, so nevertheless would you agree that the detection of any strain of *Listeria* would pose a risk to the health and life of the cohort that are vulnerable to or susceptible to *Listeria*?

Mr COOK: Dear oh dear. I gave you in my opening statement that another operator who sells for exactly the same cohort had *Listeria* found not just in the food but on his premises, okay. And what did Sutton do? Nothing. So to suggest that somehow we were providing to a cohort—*Listeria* turns up; it is ubiquitous. It is everywhere. I mean, you will have eaten it. This is just ludicrous. And it also has a crack at us. Somehow you are trying to tell me via this question that you want me to admit that somehow I was selling food to someone who should not have it? By the way, when people refer to knowingly doing something—

The CHAIR: I am sorry, Mr Cook, I will just have to stop it there because I got to move on to Mr Ondarchie.

Mr ONDARCHIE: Thanks, Mr Cook—

Mr COOK: Can I just finish really quickly on that? 'Knowingly', under section 8, is what Dandenong tried to do to me. That puts you in jail for two years. And I knowingly did nothing. I am sorry, Mr Ondarchie.

The CHAIR: Thank you.

Mr ONDARCHIE: That is all good, Mr Cook. We have only got 5 minutes of this, so I am going to ask you two or three questions and we will just belt through them. Mr Christy told us this morning that there were a number of suppliers to Knox hospital: Bidfood, S.A.J., Redi Milk, Juice & Co, GWF Tip Top, Mr Donut and I Cook Foods. Why was it just you investigated?

Mr COOK: Good question. I have no idea—oh, I do. I have told you before what I think happened, and most of the evidence is pointing that way, but if you have a look at what happened in this most recent case that I

outlined before for you, that is the way it should be handled. As your two other witnesses this morning have both told you: 24 hours, do a Listeria clean-down, everything is fine. You can do it over the weekend; you do not even need to shut someone.

Mr ONDARCHIE: You mentioned Dandenong council a few times, and it has been brought up a number of times today. Have you had any dealings with Dandenong council recently?

Mr COOK: Yes, they tried to stop me operating again this year.

Mr ONDARCHIE: What is the basis for that?

Mr COOK: So, to renew your registration, you get a letter in the mail. You fill in a couple of details—whether anything has changed, food safety supervisor et cetera—and then you go onto the portal, you enter your registration number into the portal, you pay the fee and you post back the documentation with a note that you have paid it. They check and off you go. I smelt a rat in the last week before the end of July when the renewals were up and I asked my previous admin manager—she went onto the portal for me and I said, ‘Just enter our number and pay the fee, even if the paperwork hasn’t turned up’. Anyway, she could not do it. It would not allow that. It had not been uploaded. Then funnily enough, on the Monday I got a letter from their lawyers—not from my regulator, but from my regulator’s lawyers—saying, ‘Oh, look at that. Your registration has lapsed, therefore you’ll have to apply for a whole new one and we will consider it along the same lines as anything else’. The following week I took the director to task on it and he assured me, ‘Oh, no, they should have sent you the renewal paper, not going for a new one’. I said, ‘Okay, well, I’ll accept that this was lost in the mail if you would like to send it out to me’. He said, ‘Oh, yes, yes, we will’. Now, that conversation was longer than what I just abbreviated for you but yes, when taken to task, once again they rolled over.

Mr ONDARCHIE: Okay. And just one final question with the limited time that I have: this has been—and pardon the pun here—very taxing on you and your family. Tell me how everybody is.

Mr COOK: We are strong, and it is like I said last time—we are not going away. You know what? This is not just about me, my family and my employees anymore. This is about the very democracy in Victoria. I mean, this state is being run by a man who appears to have loaded almost every major department with cronies that will do whatever he says, so you know what? Someone needs to hold Daniel Andrews and his government to account. And the same, you know—Mikakos said Daniel Andrews was a liar, because of the Coate inquiry, and yet she will not come and talk to you guys.

Mr ONDARCHIE: Take care.

The CHAIR: Thank you. Ms Vaghela.

Ms VAGHELA: Thanks, Chair. Mr Cook, there are different classes of food businesses—class 1 and class 2. Your business was classified as class 2(a). Do you think it would have made any difference if your business was, say, classified as a 1(a), which supplies the food to the vulnerable cohorts?

Mr COOK: Okay, under the classification system there is class 1, 2, 3 and 4. That is it. Some councils have made the class 2(a) because they have manufacturers like us that deal with class 1 customers, and if you read the Act, a class 1 actually has to serve, so technically I should be serving the patient in the hospital, which I do not do. I have no control over what they call me, none at all. That is entirely up to them. And it makes no difference, because the only difference between a class 1 premises and a class 2 premises is if you are a class 2 you can use the department’s food safety template. That is the lowest form of food safety program you can use. We do not. We use the highest we can get. So our ISO 22000 is up there with any class 1 premises. So it made no difference. They intended closing us, and that is what they did.

Ms VAGHELA: And because you were not able to reopen your business, have you found out where the food contracts have gone to, which companies?

Mr COOK: In some of them. I do not know all of them. Some councils will not tell you. We did try and inquire about them. We know that for texture-modified, Monash went to Community Chef, we know that Glen Eira went to Community Chef, we know Yarra Ranges went to Community Chef. So that is what we tried to

find out. There are a couple of others that have gone to other suppliers, like the one I was talking to. There are a number of companies around Melbourne that I believe have picked up one or two of our contracts.

Ms VAGHELA: So it is not that all the contracts have just gone to Community Chef.

Mr COOK: Sorry, no, not all the contracts went to Community Chef. They got a couple of them—and they got a couple of the good ones, too; they are quite valuable. And I do not think they ever expected to get all of them.

Ms VAGHELA: Well, I thought, if they were considering you as rivals and if you were not in the business, that maybe they got all the contracts. That is all I wanted to know.

Now, you have mentioned several times about lies and, you know, different entities colluding and fabrications and conspiracies and all those sorts of words that we have heard and read. Now, the City of Greater Dandenong had referred the allegations which were made by Ms Rogerson about misconduct to IBAC, and that was referred to the Ombudsman. What are your views on that?

Mr COOK: First of all, I have never used the word ‘conspiracy’.

Ms VAGHELA: Not only you—throughout, not just you.

Mr COOK: Hang on. I have not used the word ‘conspiracy’, because a conspiracy invites speculation. Everything I have given you about Community Chef is facts. How you join those dots and what you call it is up to the individual. I have said there is compelling circumstantial evidence. What was the other part of your question?

Ms VAGHELA: So if there were lies and corruption and all those sorts of things, then from IBAC it was referred to the Ombudsman. So if you are saying that every person or most of the witnesses who came and said that lied or they have provided us wrong information, then why did something not eventuate out of IBAC or the Ombudsman?

Mr COOK: Okay. First of all, the Ombudsman who looked into what? Rogerson’s complaint happened before your inquiry, so they obviously would not have got the evidence we have now seen. Secondly, the Ombudsman did not say that there was nothing to see; what they said is they did not have enough evidence. Now, if the Ombudsman had got the police to go and take out a search warrant or IBAC had done it on the computer systems at Dandenong, they may have found the evidence. What they said—and it was told to your committee—is: ‘We didn’t say they didn’t do it. We just said we don’t have enough evidence’. So perhaps this committee might encourage IBAC, who have enormous powers, to go and actually have a good hard look at this now, because there are a number of things, including Tony Doyle, who hid Ray Christy’s report even though he knew that it would be used in a court action against me, and that—

The CHAIR: Sorry, Mr Cook, I am just conscious of time. Dr Bach.

Dr BACH: Thanks so much, Chair, and thanks, Mr Cook, for being with us. Before Mr Ondarchie’s question, you were responding to some questions specifically I think at that point that had been asked repeatedly, grubby and transparent questions that have been asked repeatedly not only of you, sir, but of other witnesses today about the fact that there was Listeria at your business. You have also been asked questions today about 13 occasions on which concerns were raised, and you in a very clear way made the point that not only did that not demonstrate cause for concern but there were a range of examples—you raised a very pertinent example of, what was it, the rock in the rice, for goodness sake. Obviously these questions are being raised not only here but in the press solely in an attempt to smear you, Mr Cook. You did not have an opportunity to finish your response before Mr Ondarchie asked his question. Is there anything else that you would like to say in response to these types of ongoing questions being raised, predominantly by members of the Victorian branch of the Labor Party?

Mr COOK: You are absolutely correct. Do you know what? If this is all they have got, then it just shows that this was all done maliciously. The City of Dandenong and through its CEO, John Bennie, who delivered that report to you that covered off all of those merits—he really has to be held to account for that because that is lying by omission. That document, which is a false and misleading document—by the way, that is another

crime—was used to make us look bad, dirty, whatever, and it was completely fraudulent. As I said, if you had some time and I stepped you through all of it, might I encourage all of you to ask the committee organisers to find my letter, or I can resend it to you? It sets out exactly what happened.

One of the other things, too, was that they found a piece of glass and they sent it off to a lab and had it all tested. It came back that it was domestic glass and it was unlikely to have come from I Cook Foods. We do not use glass in the factory. We were doing between the hospitals and that, what, 50 000 components a week. Occasionally you will get someone who wants to blame you for something. That is fine. That is why we investigate it thoroughly, and the council does.

Dr Bach interjected.

Mr COOK: Yes. Sorry.

Dr BACH: No, don't be. I know that my time is running out. There have been more Labor lies today, Mr Cook. You were just verballed before and said that you have called this a conspiracy when you have not, obviously solely for the purpose of our viewing audience today. So thank you so much for coming along and setting the record straight and giving us some facts.

Mr COOK: No problem at all.

The CHAIR: Dr Bach, you went very close there. Thank you. Ms Watt.

Ms WATT: Thanks, Mr Cook. I just have a further question to before when we were talking about the standards required in food settings. Of course there were a number of charges that were brought against you, and you have disputed those. But I wonder, then, if you can comment—with so many of those charges, and we have heard about the rice and the water and there is the build-up of debris and other things—on why it is that you believe that despite failing to comply with the food standards code and contravening orders made under the *Food Act* your business should be allowed to continue to operate?

Mr COOK: Well, first of all, you have just suggested that I actually did those things. So if you or anybody else—

Ms Watt interjected.

Mr COOK: That is exactly what that question sounded like to me, unless you would like to rephrase it.

Ms Watt interjected.

Mr COOK: The bottom line is this: if they had had the evidence they said they had, they would have proceeded with the charges. They had 96. They only had to get a couple of charges up against me, if they were accurate. Remember, all those charges were breaches of the *Food Act*. So if I had done what they said I had done, they just had to prove it in court. We would not be sitting here today. I would be dead in the water. The reason that it did not go ahead is that they could not prove it. Why couldn't they prove it? We did not do anything wrong, and now I find myself justifying myself for not having done anything wrong. And do you know? That is incredibly frustrating.

Ms WATT: I appreciate that. That is it for my questions. Thank you, Chair.

The CHAIR: Thank you very much, Mr Cook. We appreciate your time. I will make a point that we will recirculate some of the correspondence that you had with the committee, just for the benefit of refreshing people and for those who were not part of that initial inquiry. As I mentioned, this is being recorded by Hansard. You will receive a transcript of today's hearing in the next few days. Please, I encourage you to have a look at that and make sure that we have not misheard you or misinterpreted anything that you have said today. That concludes today's public hearing into the closure of I Cook Foods. Thank you to all of the committee members. I will close the meeting now.

Mr COOK: No worries. Thank you very much.

Committee adjourned.