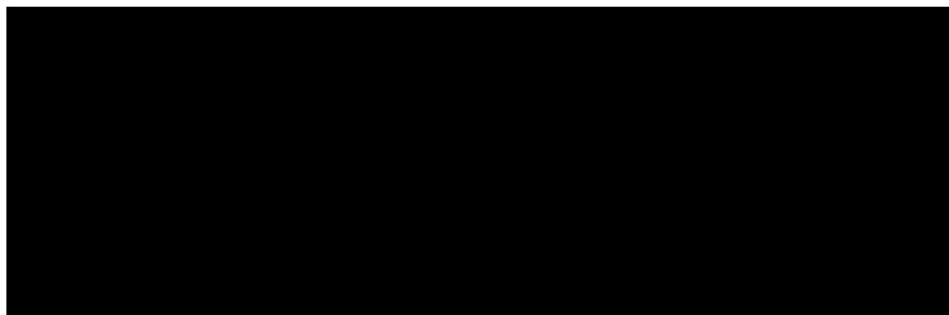


Reference:
Enquiries: CEO Office - 8571 5136

6 July 2020



Dear Members of the Legal and Social Issues Committee,

DOCUMENTATION REQUESTED BY THE PARLIAMENTARY INQUIRY INTO THE CLOSURE OF I COOK FOODS.

Firstly, may I express our appreciation at being able to address the Committee on an issue which has been the subject of much media attention and misrepresentation of the facts over the last year or so. The opportunity to address the Committee will hopefully assist in redressing much of that misrepresentation.

I refer to your email dated 25 June 2020 requesting the provision of certain documentation for the review of the Committee. I set out below the list of such documents provided under cover of this letter:











1. Provide a digital copy of all documents referred to and circulated at the Hearing.

These documents #1 are provided and numbered as follows:

- 1.1. Statement to the Parliamentary Inquiry of John Bennie CEO;
- 1.2. Supporting folio of tabs or attachments referred to in 1.1 - Statement to the Parliamentary Inquiry of John Bennie CEO;
- 1.3. Statement to the Parliamentary Inquiry of Jody Bosman, Director City Planning, Design and Amenity;
- 1.4. Statement to the Parliamentary Inquiry of Leanne Johnson, Coordinator Public Health;
- 1.5. Photographs of I Cook Foods premises taken by and referred to in the Parliamentary Inquiry by Elizabeth Garlick;
- 1.6. Photographs of I Cook Foods premises referred to in the Parliamentary Inquiry by Leanne Johnson.

Language link  13 14 50

Albanian/Shqip Arabic/عربي Chinese/中国 Dari/دري Greek/Ελληνικά Hazaragi/هزارگی
Khmer/ខ្មែរ Serbian/Српски Turkish/Türkçe Vietnamese/Tiếng Việt

 Phone 8571 1000	 TTY: 133 677 Speak and listen: 1300 555 727 Online: relayservice.gov.au	Find us online 
 Fax 8571 5196	 TIS: 13 14 50	greaterdandenong.com
 council@cgd.vic.gov.au		   

English

This is an important message. If you need assistance in your language please contact us through the TIS interpreting service on 13 14 50. When you call this number state your language and the operator will organise an interpreter. Ask the interpreter to transfer you to the person who signed the letter.

Albanian/Shqip

Ky është një mesazh i rëndësishëm. Nëse keni nevojë për ndihmë në gjuhën tuaj ju lutemi na kontaktoni përmes TIS shërbimit të përkthimit në 13 14 50. Kur telefononi këtë numër, na informoni për gjuhën tuaj dhe operatori do të organizojë një përkthyes. Kërkojini përkthyesit që t'ju transferojë të flisni me personin që ka nënshkruar letrën.

Arabic/عربي

هذه رسالة هامة. إذا كنت بحاجة للمساعدة بلغتك يرجى الاتصال بنا خلال خدمة الترجمة التحريرية والشفوية TIS على الرقم 13 14 50. وعند اتصالك بهذا الرقم أذكر لغتك التي تتحدثها وسيقوم موظف الهاتف بتوفير مترجم لك عبر الهاتف. أطلب من المترجم أن يصلك بالشخص الذي وقع على الخطاب.

Chinese/中国

重要信息。如果需要中文协助，您可以拨打电话13 14 50，通过TIS口译服务与我们联系。在接通之后，请告知您所说的语言，接线员会帮您安排一位口译员。然后请要求口译员帮您转接至信件的签署人。

Dari/دري

این یک پیغام با اهمیت است. اگر به لسان خودتان کمک می خواهید لطفا از طریق تیس (خدمات ترجمانی) TIS نمبر 13 14 50 با ما تماس حاصل نمایند. وقتی به این نمبر زنگ زدید، لسان خود را بگوئید و مأمور تلفون یک ترجمان برای شما خواهد گرفت. از ترجمان تقاضا کنید ارتباط شما را با کسی که مکتوب را امضا کرده است برقرار نماید.

Greek/Ελληνικά

Αυτό είναι ένα σημαντικό μήνυμα. Αν χρειάζεστε βοήθεια στη γλώσσα σας παρακαλούμε επικοινωνήστε μαζί μας μέσω της υπηρεσίας διερμηνείας TIS στο 13 14 50. Όταν καλείτε αυτό τον αριθμό να δηλώσετε τη γλώσσα σας και ο τηλεφωνητής θα οργανώσει ένα διερμηνέα. Ζητήστε από το διερμηνέα να σας πρωωθήσει στο πρόσωπο που υπέγραψε την επιστολή.

Hazaragil/هزارگی

این یک پیام خیلی مهم است. اگر شما نیاز به کمک در زبان خود را داشته باشید، لطفاً با ما از طریق خدمات ترجمانی TIS به شماره 13 14 50 تماس بگیرید. هنگامی که شما به این شماره زنگ بزنید، زبان خود را یاد آور شوید و اپراتور بندوبست ترجمان را برای شما می‌کند. از ترجمان بخواهید که شما را به شخصی که این نامه را امضا کرده وصل / ترانسفر کند.

Khmer/ខ្មែរ

នេះគឺជាសារដ៏សំខាន់។ ប្រសិនបើលោកអ្នកត្រូវការជំនួយជាភាសារបស់លោកអ្នក សូមទាក់ទងមកយើងខ្ញុំតាមរយៈសេវាកម្មប្រកាសាសិនយាយ TIS លេខ 13 14 50។ ពេលណាលោកអ្នកទូរស័ព្ទមកលេខនេះ សូមបញ្ជាក់ប្រាប់នូវភាសារបស់លោកអ្នក ហើយពេលនោះ អ្នកប្រតិបត្តិការនឹងរៀបចំអ្នកបកប្រែភាសាមួយរូបជូនលោកអ្នក។ សូមស្នើសុំអ្នកបកប្រែភាសា ឲ្យបញ្ជូនលោកអ្នកទៅកាន់បុគ្គលដែលបានចុះ ហត្ថលេខាលើលិខិតនេះ។

Serbian/Српски

Ово је важна порука. Ако вам треба помоћ на вашем језику, молимо вас да нам се јавите преко преводилачке службе TIS на 13 14 50. Када назовете тај број, реците ваш језик и оператор ће да организује услуге преводиоца. Реците преводиоцу да вас повеже са особом која је потписала писмо.

Turkish/Türkçe

Bu önemli bir duyurudur. Konuştuğunuz dilde yardıma gerek duymanız durumunda lütfen TIS tercümanlık servisinin aracılığı ile bizi 13 14 50 numaralı telefondan arayın. Bu numarayı arayarak konuştuğunuz dili belirttiğinizde operatör size bir tercüman sağlayacaktır. Sizi, mektubu imzalayan kişiye bağlamasını tercümana bildirin.

Vietnamese/Tiếng Việt

Đây là một thông điệp quan trọng. Nếu quý vị cần được trợ giúp bằng ngôn ngữ của quý vị, xin liên lạc với chúng tôi qua dịch vụ thông dịch của TIS ở số 13 14 50. Khi quý vị gọi số này, hãy nêu rõ ngôn ngữ của quý vị và nhân viên tổng đài sẽ thu xếp một thông dịch viên. Hãy yêu cầu thông dịch viên này chuyển quý vị tới người đã ký lá thư.

Customer Service
Dandenong
225 Lonsdale Street
Springvale
397-405 Springvale Road

Noble Park
18-32 Buckley Street
Keysborough
Shop A7, Parkmore Shopping Centre

PO Box 200, Dandenong 3175
Phone: 8571 1000
Fax: 8571 5196
greaterdandenong.com
council@cgd.vic.gov.au

2. Provide a copy of the attachment to Community Chef Board Papers of 22 February 2019 relating to the statement of conflict of interest.

This is provided as follows:

Refer - Document #2.

Document #2 attached, includes two separate documents that cover the period in question – my submissions to Community Chef of the 'Declaration Form' for 'Key Management Personnel'. The first of these applies to the period '1 December 2017 and ongoing' and precedes this particular matter. It notes that I am the Chief Executive Officer of Greater Dandenong City Council. The second of these relates to the period 1 July 2018 to 30 June 2019; notes my continuing role as Chief Executive Officer of Greater Dandenong City Council and includes the note "By formal advice to the Chair of Regional Kitchen Pty Ltd dated 20 May 2019, John Bennie stood aside from the Board pending assessment of matters involving Greater Dandenong City Council and I Cook Foods Pty Ltd, a competitor to Regional Kitchen".

Council's understanding, then and now, is that the closure matter effectively entered the public domain when I Cook Foods was served the notice of closure at 4.00am on the morning of 22 February 2019.

Amongst other things this involved both a physical serving of a public notice attached to the premises, and triggered notices of closure being sent to a range of organisations external to I Cook Foods.

As CEO of Greater Dandenong City Council and as a director of Community Chef, I had an obligation to both organisations to avoid giving rise to a conflict of interest and to explain the steps I had taken to do so.

This was the basis of my comments during the strategic planning session Community Chef held on the morning of 22 February 2019. When the matter was raised, following media reporting of the incident, I briefly confirmed the closure had taken place and set out my role in avoiding any conflict of interest in the decision to close I Cook Foods taken by DHHS.

3. Provide a copy of the report into the audit undertaken of Health Officers. Were any issues of concern regarding the health team?

In this regard we offer the following commentary and advice:

The document referred to is, in fact, covered by legal professional and solicitor/client privilege. Given that I Cook Foods has publicly indicated an intention to pursue legal proceedings Council does not, in the circumstances, propose to waive privilege and make the report available.

4. What is the extent of public funds that have been spent in relation to the legal proceedings against I Cook Foods?

In this regard we offer the following commentary and advice:

Council engaged the services of [REDACTED] [REDACTED] by [REDACTED]s to assist in the matter of Food Act breaches by I Cook Foods and communications between Council and lawyers acting for I Cook Foods. [REDACTED] [REDACTED] also instructed barrister

██████████ in the matter, who together with ██████ al ██████ dy ██████'s represented Council at the Magistrates' Court.

The total prosecution related cost to Council in bringing the matter to the Magistrates' Court was \$56,752.57.

5. Provide a comparison of the handling of the closure of I Cook Foods to the closure of other premises.

In this regard we offer the following commentary and advice:

The examples chosen to illustrate comparisons as requested, include one in which a Salmonella Outbreak was detected in 2016, and one in which Listeria was detected in August 2019. These examples have been appropriately redacted to protect the private details of the businesses in question.

These examples demonstrate that it is possible and practical to bring a premises back into safe production within a short period of time; that with the right response to information provided by Council Environmental Health Officers and the timely engagement of appropriately qualified and supervised contractors the interruption to business can be minimised.

The full set of documentation relevant to each case is supplied for your information.

Document #3-Case 1: Closure of Bakery in Springvale - Salmonella Outbreak 2016

Overview:

1. What type of Business? Take/Away Shop preparing and selling Pork Rolls meat loafs, egg butter, pate'.

2. What was the issue? Investigating a Salmonella Ent. Outbreak of approximately 15 people sick.

3. How was it rectified? The Closure notice issued on 06 June 2016 to cease operation, clean, sanitise the premises and train the staff. Monitored clean up and disinfection, joint inspections with PrimeSafe to separate the meat processing area from a t/away shop to eliminate possible cross-contamination risk in a future.

4. How long did it take to be fixed? – 3 days till opened again. Closure revoked 09 June 2016.

Document #4- Case 2: Listeria Notification of Manufacturer – Dandenong. Aug 2019

Overview:

1. What type of Business? A Large catering business making sandwiches and wraps supplying service stations, hospitals, etc.

2. What was the issue? Listeria monocytogenes detected in a sandwich in another municipality.

3. **How was it rectified?** Inspection, swabs, food samples, reviewing suppliers list and Listeria Management Plan. Sourced new supplier for the suspect ingredient (Corn beef).

4. **How long did it take to be fixed?** – within one day conducted clean up and disinfection according the Listeria Management Plan.

6. Provide files notes, emails and reports of previous standards and known issues detected at the I Cook Foods premises.

In this regard the following documents are attached for the Committee's information:

Document #5. Charge Sheet & Summons – Company – I Cook Foods

Document #6. Charge Sheet & Summons – Director – I Cook Foods

Document #7. File notes, emails and inspections for I Cook Foods

7. Out of those 48 charges, how many of those were new?

In this regard we offer the following commentary and advice:

Of the 48 charges brought before the Magistrates Court, 14 charges (10, 11, 15, 16, 18, 19 20, 21, 22, 29, 31, 35, 47, & 48) were new at the time of the inspections on the 18th and 19th of February 2019.

However, to contextualise this, from review of the I Cook Foods file, each time an issue was raised, Officer Rogerson signed off that she was satisfied with the response/actions taken by I Cook Foods.

To reiterate the explanation of the status of these charges, as per Mr Bosman's evidence provided at the Committee Hearing, ultimately:

“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...”

Standard practice across local government for the application and enforcement of requirements under the Food Act, is to give producers like I Cook Foods an opportunity to remedy any identified areas of concern before the matter is elevated to consideration of legal proceedings.

According to Council's historical file notes, where Officer Rogerson had identified issues of concern with I Cook Foods, she was subsequently satisfied with the steps taken by the company to rectify these matters.

However, some of these issues appear to have been present yet again and of concern to our Officers during their extensive examination of the I Cook Foods premises as part of the investigation warranted by the listeria episode in February 2019.

The fact that the company had had ample warning and opportunity over time to address these issues and they had recurred yet again, together with the identification of a further substantial set of new concerns, provided sufficient grounds to inform Council's decision to now begin legal proceedings against the company for breaches of the Food Act.

8. Should action from council have been taken against I Cook Foods earlier?

In this regard we offer the following commentary and advice:

In our view the relevant action was taken at the time on the basis of the information provided by the then supervising council Environmental Health Officer. As mentioned at item 7 where Officer Rogerson had identified issues of concern with I Cook Foods, she recorded that she was subsequently satisfied with the steps taken by the company to rectify these matters. However, consequent examinations revealed a situation which necessitated the escalation of the action required to be taken by council for the breaches of the Food Act.

9. When was the last audit of the site? Was it done prior to 1 February 2019?

In this regard we offer the following commentary and advice:

The last previous audit provided was conducted on 28 March 2018 by a HACCP audit undertaken by Global Certification Pty Ltd. This audit is not a requirement under the Victorian Food Act 1984 and was not required by Greater Dandenong Council Environmental Health Officers. I am also of the understanding that the audit was not a DHHS accredited audit.

Further issue of clarification

For the committee's benefit, to clarify issues of the wearing of a body camera by a Council Environmental health officer, as per the evidence provided by Officer Garlick at the Committee hearing on 24 June and recorded in Hansard, Council confirms it is not normal practice for an Officer to wear a body camera to an inspection unless there was a safety concern, or a heightened reason to do so, such as for personal safety reasons or that the inspection itself has stepped up into one in which there may be a greater degree of serious issues to be recorded. Most inspections are undertaken without body cameras being worn.

As per her evidence, Officer Garlick attended I Cook Foods on February 18th without a body camera as she believed it was a standard inspection – her hand-held camera was sufficient to gather evidence, and she did not believe there to be any safety threat.

It was only after having been notified of the elevated status of the matter, given the death of the listeria victim, that Officer Garlick decided to wear a body camera on her inspection the subsequent day.

Finally, in light of the strong evidence provided to Committee through the course of the day on 24th June 2020 I request the indulgence of the Committee in providing here a response to Dr Bach's statement on page 36 of the draft Hansard transcription 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 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."

It would only be fair and just, having heard the evidence of that day to seriously consider the eventuality that there had in addition to the eventualities mentioned by Dr Bach, indeed been a serious failure by I Cook Foods.

Yours sincerely,



John Bennie PSM
Chief Executive Officer

