

I Cook rival briefed early

By Cam Lucadou-Wells

A cash-strapped council-owned business Community Chef acted swiftly after the shutdown of its commercial rival I Cook Foods by health authorities, a Parliamentary inquiry heard.

Hours after the closure, Greater Dandenong chief executive and Community Chef director John Bennie addressed the Community Chef board on the "emerging issue", according to Community Chef meeting minutes on 22 February 2019.

Community Chef then decided to reach out to "assist" I Cook Foods' clients, including council Meals on Wheels services, hospitals and aged care centres.

At 4am that morning, Greater Dandenong Council officers had served a closure notice on I Cook.

Mr Bennie told the Parliamentary inquiry he briefed the board at the scheduled "strategic planning meeting" about 10.30am or 11am.

At that stage, I Cook's closure was already in the "public domain" via an ABC broadcast, he said.

"I have a recollection that it was raised by officers of Community Chef that a news announcement had been made in relation to I Cook Foods.

He briefed the meeting because "I thought it was relevant in the context of all things we were talking about in the sector".

"I thought it was then relevant and appropriate that I indicate what I understood about the situation."

Community Chef CEO Joe Ciccarone also told the inquiry that Mr Bennie briefed the board after the closure was "public knowledge". He thought it was in the morning but was unsure of the time.

The briefing details were "no more ... than what was public knowledge", Mr Ciccarone said.



I Cook Foods soon after it was closed by health authorities in February 2019. 190890

Picture: STEWART CHAMBERS

However, Liberal MP Wendy Lovell told Mr Ciccarone that this information "seems to be incorrect".

She said that Mr Bennie briefed the meeting when it reconvened at 12.45pm but the news was only made public by The Age at 2pm - 30 minutes before Mr Sutton's press conference.

"I'm not absolutely certain of those timelines," Mr Ciccarone said.

"I have a vague recollection of the sequence of events ... that's all I can really offer."

Inquiry members noted there was no mention in the meeting's minutes of Mr Bennie's conflict-of-interest.

Mr Bennie told the inquiry he had declared a "standing" conflict-of-interest due to being Greater Dandenong CEO.

Due to the conflict, he'd stood aside from the Community Chef board during the ongoing I Cook Foods dispute.

Mr Bennie told the inquiry that he'd been unable to sign I Cook Foods' closure order due to his conflict. Instead, it was signed by Acting Chief Health Officer at the time, Brett Sutton, and served by the council's officers.

"I knew that Community Chef's agenda had

extended beyond the provision of meals to councils and included the provision of meals to hospitals.

"I therefore knew the closure of I Cook Foods for any period would create a vacuum that Community Chef may fill.

"I therefore recognised I had a conflict of interest."

Mr Ciccarone said nearly every council shareholder in Community Chef had a food manufacturer in its council area.

"By that logic every council would be conflicted and I don't believe that's the case."

At the meeting on the day of the closure, Community Chef's board decided to offer "assistance" to I Cook's customers.

The arrangements were short-term, and only to ensure vulnerable customers to go without food, Mr Ciccarone said.

The business gained a "marginal" benefit from I Cook's closure, he told the inquiry.

Out of I Cook's former customers, only one council and an aged care home became an ongoing client, Mr Ciccarone said.

The Upper House inquiry is investigating I Cook Foods' claims that it was wrongfully

shutdown and linked to a listeria-related death of an elderly hospital patient.

Among the claims was that Greater Dandenong Council and the Department of Health and Human Services were motivated to close I Cook due to their financial ties to Community Chef.

The council and the department have justified their actions on the grounds of protecting the public from a potential listeria outbreak.

According to the board meeting minutes, Community Chef's "tight" cash position was discussed on the same day of I Cook's closure, along with the seeking of advance payments from councils.

The State Government's possible buying into the business was also discussed.

"I wouldn't say (Community Chef was under) financial difficulty ... these were manageable matters," Mr Bennie told the inquiry.

Declining meal numbers was putting "stress" on Community Chef at the time, he said.

Since I Cook's closure, Western Health had offered to buy out Community Chef, the inquiry heard.

Mr Ciccarone declined to reveal the purchase price, nor to confirm it was a peppercorn price of \$1 for each of the 17 council shares.

He cited "commercial-in-confidence".

Mr Bennie told the inquiry that I Cook Foods was a competitor. But Mr Ciccarone didn't agree, they were only offering "more choice in the marketplace", he said.

He declined to discuss Community Chef's broader food service strategy in the wake of I Cook Foods' closure. The report was discussed in an April 2019 board meeting and was to be presented to the Health Minister.

The board also discussed Community Chef's "transition strategy" at the same time. At the inquiry, Mr Ciccarone declined to elaborate due to "commercial in confidence".

Conflict managed: Bennie

By Cam Lucadou-Wells

Greater Dandenong chief executive John Bennie has defended his actions in managing his and the council's conflict of interest in the I Cook Foods shutdown.

Mr Bennie told a Parliamentary inquiry on 24 June that he couldn't sign the closure order due to the council's part-ownership and his directorship of I Cook's rival Community Chef.

On the evening of 21 February 2019, he was informed by council staff that the Acting Chief Health Officer requested the council to serve a closure notice on I Cook Foods by the following morning.

Under the Food Act, Mr Bennie couldn't delegate the function to other council managers, he said. Even if legally permissible, the criticism would be that he was delegating to somebody "answerable and accountable to me".

The Chief Health Officer, Brett Sutton, instead signed the order, and council staff served the order early the next morning.

I Cook Foods director Ian Cook's assertion that the council had an agenda to target and close down I Cook Foods was "completely untrue", Mr Bennie said.

"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 after notification from the Department of Health and Human Services that an elderly woman had died with evidence suggesting a possible link to I Cook Foods."

The council's investigation was conducted "professionally" and "ethically".

"Council and its staff have acted with integrity throughout.

"The suggestion that council's involvement in Community Chef created a conflict of interest for all council staff and tainted what they did is ill-founded.

"Those performing regulatory functions on Council's staff including (the environmental health inspectors) had no role to play in Council's interface with Community Chef."

He told the inquiry that a council-com-



Greater Dandenong CEO John Bennie told a Parliamentary inquiry that he appropriately handled his conflict-of-interest.

missioned audit found that there were "fundamentally no issues for us to be concerned about".

Though I Cook Foods had not been prosecuted for food-safety breaches, there was a history of "complaints" including the detection of listeria between 2016-18, Mr Bennie said.

In each instance, the company - under the watch of environmental health inspector and whistleblower Kim Rogerson - was directed to take "corrective action".

He tabled an Ombudsman's report that he said found "no substance" to claims that Ms Rogerson was intimidated by the council to sign an altered version of her report on I Cook Foods and allegations about Mr Bennie's conflict of interest.

The changes made to Ms Rogerson's report were a "natural progression from first draft to final format", the Ombudsman's report stated.

"I have been unable to identify evidence to suggest that the expansion of your statement was as a result of council officers falsifying your statement."

I Cook Foods alleges that it was wrongfully shut down on a number of bases, including alleged fabricated claims of an unsafe, unclean premises by Greater Dandenong environmental health inspectors.

The inquiry is scheduled to report back on the matter by the end of July.