

# TRANSCRIPT

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Inquiry into the Victorian Government's Response to the COVID-19 Pandemic

Melbourne—Thursday, 14 May 2020

#### Members

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**WITNESS**

Mr Wes Lambert, Chief Executive Officer, Restaurant & Catering Australia (*via videoconference*).

**The CHAIR:** Welcome, Mr Lambert. Welcome to the public hearings for the Public Accounts and Estimates Committee Inquiry into the Victorian Government's Response to the COVID-19 Pandemic. The Committee will be reviewing and reporting to the Parliament on the responses taken by the Victorian Government, including as part of the national cabinet, to manage the COVID-19 pandemic and any other matter related to the COVID-19 pandemic. All mobile telephones should now be turned to silent.

All evidence taken by this Committee is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, but if you repeat the same things outside this forum, including on social media, those comments may not be protected by this privilege. You will be provided with a proof version of the transcript for you to check, and verified transcripts, presentations and handouts will be placed on the Committee's website as soon as possible. The hearings may be rebroadcast in compliance with standing order 234. We ask that photographers and camerapersons follow the established media guidelines and the instructions of the secretariat.

We will invite you to make a brief opening statement of no more than 5 minutes, and we ask that you state your name, position and the organisation you represent for broadcasting purposes. We will then follow this with questions from the Committee. Members of the Committee will ask questions relative to their representation at the table. Thank you for joining us.

**Mr LAMBERT:** Thank you. I am Wes Lambert, the CEO of Restaurant & Catering Australia, which is a national peak body representing restaurants, cafes, caterers, coffee shops and small bars around Australia. I am going to make my statement very brief. In entering the lockdown we believe the Victorian Government communicated clearly, listening to the industry on what was needed to help them survive through the pandemic, retaining takeaway and delivery for restaurants and also providing an enormous amount of support regarding the introduction of takeaway and delivered packaged alcohol.

As far as the stimulus and support measures go, Restaurant & Catering was consulted closely on the measures and provided feedback that assisted in the formation of the final package. We were not upset that Victoria went last in their announcement as they were able to better understand what was needed and focused their spending on recovery spending, assisting businesses to survive through, rather than the stimulus. We believe it was the most comprehensive package to assist the restaurant, cafe and catering industry of any state's stimulus nationwide. I will not list out the packages that were prepared for me because they are public information.

In the approach to the road map, however, we understand why the Premier has chosen to wait, but we are confused that no health reason was given to support delaying our sector to stage 2, where other states have introduced it at stage 1. We note that his reason given for restaurants, coffee shops, cafes and small venues was it was not financially viable. We believe that the introduction of 10 patrons at stage 1 gives businesses the choice as to whether they should open. We have strong disagreement with the Victorian Government that they have chosen a business decision for our members rather than a health reason as the reason given why our industry was left out of step 1. That is my statement to the Committee.

**Ms RICHARDS:** Thanks, Mr Lambert. I would like to thank you and your members for what has been an extraordinary period—the hard work that you have been putting in to support your members during this unprecedented time. We know that the restaurant and catering industry has been particularly hard hit by the mandatory lockdowns imposed over the last month. Could you expand a little bit more on the assistance that the Government's small business package, including the mandatory code on commercial leases, has been to your members? Could you unpack that a little bit more?

**Mr LAMBERT:** How they felt about it or the package in total?

**Ms RICHARDS:** What assistance you have been able to get as part of that—what that assistance has been.

**Mr LAMBERT:** We have the \$1.7 billion economic survival jobs package. We have the full payroll tax refunds for the 2019–20 financial year to small and medium-sized businesses with a payroll of less than

\$3 million, which pretty much covers our entire industry. The payments start flowing from next week and will save businesses up to \$113 975 a year, with the average business in our sector saving \$23 000. Our industry is one of the top five employers in the state of Victoria, so this is very important. Deferring the first three months of payroll tax in 20–21 until after 1 January 2021 will further free up \$83 million in cash flow. Certainly the Federal mandatory landlord code of practice, as it was applied in Victoria—we do note that there were a few groups that may have been left out of that, that were grouped with \$15 million in sales. I know there are a dozen or so restaurant groups that have many small leases but happen to be grouped together for their tax purposes, so in their case they are relying on the \$40 million fund that was set up, which we sit on the task force for to help allocate and inform. Certainly a few of our members will be taking that up. The \$500 million Business Support Fund again for the hardest hit sectors, which include hospitality, tourism and accommodation—those are all industries that we fall into and were greatly affected. The Government committing to paying supplier invoices within five days, which releases \$750 million into the economy—all of these things positively affect our members. We certainly welcomed all of those in Victoria.

**Ms RICHARDS:** Great. Thanks, Mr Lambert. How have your members adjusted to the restrictions? Perhaps as part of your evidence you might be able to give a little bit of insight on what steps your members have taken to pivot to online sales and even a little bit more about what the success rate has been for businesses as part of that pivoting.

**Mr LAMBERT:** So 75 per cent of the restaurant industry remained open, so your corner coffee shops and your cafes. This is nationwide. We do not have the state-by-state numbers yet; those will come from the ATO and the ABS in time. However, that is the nationwide number. Those 75 per cent represent about 60 per cent of the revenue in the industry, so ultimately the larger restaurants, the more premium casual restaurants and the fine-dining restaurants have closed during the crisis, and they represent a larger amount of revenue but not necessarily a larger amount of jobs or number of units. Of the 75 per cent that did remain open, they pivoted very quickly to takeaway if they had never done it before, or they continued doing it if they had been and were quite successful. They pivoted to self-delivery using the self-delivery apps; they pivoted to app delivery—so the big three; they pivoted to grocery; and they also pivoted obviously to the delivery of alcohol, where possible; as well as some innovative fine dining, dine-with-me experiences, like Mercer's just outside of the CBD, who are taking one to 200 orders on Friday and Saturday nights where the meals are fine dining and they are delivered to the diners and then you cook through them with the head chef, Stephen Mercer. So that is an example of a fine-dining restaurant pivoting to remain open and cover their fixed costs, which have been lowered due to JobKeeper, due to the reduction in rents and due to the BAS top-ups as well as the payroll tax rebates and refunds.

**Ms RICHARDS:** There has been some terrific evidence this morning as well telling us that businesses now consider it reimagining, and I think that the examples you have just given are certainly terrific ways for us to see how they have taken that extra step. Just stepping back a little bit actually, with the businesses that have—it will help the Committee for us to understand—accessed either the Federal or the State Government support, can you talk us through what supports have been particularly valuable and have seen the greatest take-up by your member businesses. Have you got those insights?

**Mr LAMBERT:** Well, we are still in the crisis. We realise that approvals for JobKeeper just started rolling out last week and the payments just started rolling out this week, so ultimately just like the ABS and the ATO cannot firmly tell us exactly what has and has not been taken up. I think that will become an audit trail in the future where we will be able to look back and see which businesses took full advantage. Ultimately, only 54 per cent of the accommodation and food services industry signed up for JobKeeper. This is multipronged. One was the need to prepay the labour in advance, the payroll in advance. That was a huge sticking point for our industry because for most of the businesses if they were closed, they had no income and if they were open, their revenue dropped anywhere from 5 to 50 per cent depending upon how well they were able to pivot. So there are many businesses in our industry that were eligible in our ANZSCO that did not apply and still have not applied, which is why we believe the Federal Government has extended JobKeeper until 30 May—the signups—because especially in our industry there was not the 80 to 100 per cent expected signups but significantly less.

The mandatory code of conduct for landlords—again, this was predicated on approval of JobKeeper and so ultimately those negotiations, where they have not already commenced and been completed are beginning now, and we expect that to be certainly an interesting issue for our members as they negotiate with the landlords,

who could be mom and pop or could be large multinational companies. Ultimately, we think that process is going to play out over the next weeks and months.

Certainly the payroll tax, depending upon whether or not you were paying payroll tax, that certainly would affect whether that was a benefit for you. And the BAS top-ups, again depending upon your business size, that would determine what refund you got. Ultimately it depends on your size of business as to which is better for you. So some of the smaller businesses might have benefited more from the mandatory landlord code of practice and subsequent State rules, and then some would have benefited more from JobKeeper. We have one member who pays \$1.6 million in payroll every month, and so they certainly benefited the most from JobKeeper in having the ability to keep the connection with employees as well as keep some people actively working in their open businesses.

**Ms RICHARDS:** Thank you, Mr Lambert. I am interested in gaining some understanding, for those businesses who have not been able to reach agreement with landlords, what support has been provided by the Victorian Small Business Commissioner? We had the commissioner here just giving evidence earlier. Further, I am interested in finding out if businesses that have accessed support being offered by the commission found it helpful.

**Mr LAMBERT:** We do not have that data back yet, again because the first time that you could technically officially prove to your landlord that your sales were down 30 per cent was with your JobKeeper approval, which again just came officially at the beginning of last week. What is more important is we are going to be monitoring that for our members going forward. I would say about half of our members in Victoria have said that they made deals with their landlords straight away. The other half that did not make deals, their landlords were requiring them to prove their drop in revenue or prove their loss, which technically the only way to do that was eligibility for JobKeeper, and so we expect to hear more about any disputes related to that. It was almost pointless to go to dispute until you had your JobKeeper approval, because if your business did not drop, if you were a restaurant that was already doing takeaway and your business exploded because that was all that could happen for the past six to eight weeks, then you did not have the ability to get rental relief from your landlord. So we do expect to now hear more about disputes that go to dispute resolution in the coming weeks.

**Ms RICHARDS:** Thank you. So you are a member organisation. What support have you been able to offer to your members, and how has this support assisted businesses navigate the current crisis—crises if you think of it as a double?

**Mr LAMBERT:** Restaurant & Catering got on the front foot, and we sit on committees in every state, some directly with the premiers and some through Treasury, assisting the premiers to understand the difficulties of our industry directly to national cabinet. And we very quickly produced a set of guidelines for our members and presented that, through the Queensland and South Australian premiers, to national cabinet. National cabinet took those guidelines under review, and the Prime Minister mentioned those guidelines to the national press just a week and a half ago. The Queensland Government has used those guidelines, word for word nearly, in their COVID Safe checklist, which is mandatory for restaurants to print out and agree to and follow, as well as mandatory training.

Ultimately we have sent those guidelines now out to our members, amended with comments from the Queensland Government and other industry associations. As well, they have been reviewed by leading epidemiologists, two universities, and they are about to get the sign-off from the Queensland health department. Ultimately we have been on the front foot lobbying for members for takeaway and delivery, which was one of the first things we lobbied that would happen, the delivery of alcohol, which was one of the first things that happened. We made multiple submissions about JobKeeper, we made multiple submissions about bringing TSS employees into JobKeeper. We made submissions in relation to the mandatory code of practice for landlords as well as multiple meetings with national cabinet members during the crisis as well as the premiers at the committee.

**Ms RICHARDS:** Thank you, Mr Lambert. You have had a busy time. So with recent bushfires and now the global pandemic, regional Victorian businesses have been through a particularly difficult time. Can you outline for us the experience of your regional members and how it differs from the impacts on metropolitan operators?

**Mr LAMBERT:** Well, there is a little bit of negativity, or a better word may be ‘confusion’, from regional members around the country where they have very low infection rates or none at all. They are wondering why Queensland, for example, has a two-speed step process where the regions have a different opening rate and number of patrons than the CBDs. Ultimately if travel is restricted between areas, they believe it is highly unlikely—if you cannot travel from Melbourne to the regions, if their infection rate is zero and has been zero for a significant amount of time, they are questioning why they then have no step one reopening plan and there is very little information about step two and beyond.

**Ms RICHARDS:** In the very short amount of time I have left I am interested in finding out what particular challenges this crisis has posed for your multicultural members. My electorate, like lots of people’s here, has a pretty significant population of people who would potentially welcome additional support in that area.

**Mr LAMBERT:** Well, I would say from a business owners’ point of view they have been treated equally to everyone, and we commend Victoria on having a very multicultural view. Ultimately that is the right thing to do. From an employment point of view, we do not represent the employees, we represent the business owners. However, the hospitality industry in total has been the hardest hit across all cultures. It is quite important to understand that our industry has lost 441 000 jobs in just the past couple of months, so we expect that our industry will also be the hardest to recover due to the lack of domestic visitors as well as international travel.

**Ms RICHARDS:** Thank you very much for your evidence.

**Mr LIMBRICK:** Thank you, Mr Lambert, for appearing today and for your presentation. You raised one thing in your presentation which concerns me. A lot of these powers the Government has been exercising under the *Public Health and Wellbeing Act*. I have heard evidence earlier this week about the arbitrary nature of some of these powers. And if we look at the statement of compatibility with human rights when this Act was first introduced, the powers to limit freedoms say that:

Such measures must be specifically aimed at preventing disease or injury and must not be arbitrary or unreasonable.

Now the limitation that you talked about in your presentation, with the business being opened for up to 10 people, you said that that was a business decision taken on your behalf. Do you feel that businesses of up to 10 people could manage the health impacts of running a cafe or a restaurant or whatever and that they could manage this sort of thing and that the business decision that you are talking about could be managed and that there would be businesses that could operate economically if they were allowed to?

**Mr LAMBERT:** I was just responding to the statement that the Premier made. The Premier made a statement that restaurants—our industry—were not opening because he believed that it was not financially viable. So what you have just said is that the response should be health-related. His comment was not health-related; it was a financial comment. There are lots of businesses that would have financially welcomed 10 people—social distancing, 4 square metres, COVID-safe—under all of the same requirements that the other states have required. Yes, there are many businesses that will not reopen. However, I would argue that 20 patrons is also not financially viable for many of the premium casual, fine dining and large businesses in Victoria, and that if that is the reason given again, then ultimately you might be waiting until July in Victoria before dining resumes.

**Mr LIMBRICK:** So in your opinion—

**Mr LAMBERT:** That was the comment. A corner coffee shop, a corner cafe, they may not even have 10 seats, or if they do, ultimately they would have benefited by being able to have people patronise the restaurant, sit down, order and increase the order value while they continue to do their delivery and takeaway. A revenue channel on such a small level, if you are already open, does not require any more management; it does not require any more cooking staff. It might require one server for 10 people. Ultimately it is not that many. That is basically two four-tops and a two-top, and that is pretty standard for one server. They typically will have four four-tops within their purview. So there would not have been a huge increase in the cost of labour to do that. However, for some venues it might have increased their revenue by 10, 15, 20, 25 per cent across seven days. That for three weeks or a month would certainly have set the state up for recovery faster.

**Mr LIMBRICK:** So you believe this decision should have been made by the business owners themselves rather than the Government?

**Mr LAMBERT:** No, I simply stated that the reasoning behind the decision should not have been financial; it should have been health-related, according to your statement before that the emergency powers should be enacted for health reasons, not financial reasons.

**Mr LIMBRICK:** We also heard evidence today that a lot of restaurants are operating with home delivery capacity and therefore their kitchens are already operating. Therefore if restaurants were allowed to have a small number of customers there, as you said, the marginal overheads might not be great and also they would save on delivery costs, as we heard earlier today. Do you think that this would have a significant positive impact on restaurants, even to be able to open in a limited capacity with 10 patrons, even if they are a larger restaurant normally?

**Mr LAMBERT:** I do know that using the comparison of other states one only has to google the CBDs of other states to see that iconic and famous restaurants around the country are gearing up for bespoke, fixed-price seatings—from, I believe, even midnight tonight in one state—and expect to get six to eight total seatings per day and have estimated to us that they will do \$20 000 to \$40 000 in revenue per day for the premium casual and fine dining restaurants. And for some of the smaller operators that expect to turn their tables normally, you know, 10 times a day—just think about your local corner coffee shop. If they could turn tables, it would absolutely increase their revenue without increasing the risk tremendously, given that standing in a grocery store or in a retail store or other businesses that fall into the retail arena are certainly going to be open with social distancing in place in many jurisdictions.

**Mr LIMBRICK:** I believe I am out of time, but thank you very much, Mr Lambert, for your evidence.

**Ms VALLENCE:** Thank you, Mr Lambert, for your presentation—or presenting to the Committee today—on what is such an unprecedented time and an important inquiry for the Parliament. So thanks for your time. I just wanted to pick up on something that you have already mentioned in your presentation—and it has been mentioned a couple of times—and that was around the Premier's statements in relation to, you know, a financial decision to continue the restriction on the opening of cafes and restaurants. And you have mentioned how disappointing that has been for you and your organisation and your members and that you disagree with that. You mentioned just then that you think that there should have been a health reason. Can I ask whether there was any advice sought from you or engagement or consultation with you or your organisation from the Chief Health Officer or deputy chief or his team in relation to this wave of restrictions just announced?

**Mr LAMBERT:** No, we were not consulted directly. We did provide our guidelines for our industry to national cabinet through two premiers, and we do sit on a task force in Victoria related to rents. However, no one from the health authorities on a state or council level in Victoria contacted us in relation to those guidelines. On the flip side, the Queensland Government are using those guidelines in total almost verbatim in their COVID-safe checklist for businesses.

**Ms VALLENCE:** And so the guidelines that you prepared—in terms of your members and the receipt of those guidelines, have your members commented that they can, you know, adhere to those guidelines that you have recommended?

**Mr LAMBERT:** They are not mandatory. I have got a copy here.

**Ms VALLENCE:** Yes. I have seen it. I have seen the guidelines.

**Mr LAMBERT:** Yes. Absolutely. They are all very low cost, and it depends on your venue. We did get some feedback about tracking and tracing. However, ultimately if someone becomes infected by COVID-19, as you have found out this morning in the McDonald's in Victoria, it would certainly assist the Government if a business has been known for all of time to take bookings or take your name and phone number when you are waiting for a table. That certainly is not too far out of the realm of best practice if you do not have the app on your phone.

Refusing entry to patrons—the chief health minister of the nation has said that that is allowed. Certainly if you present anywhere with respiratory symptoms, you should certainly not expect that that business is going to risk its staff or its other patrons, and that also would be covered in workplace health and safety. Waiting areas with social distancing—again, that is already in effect. Queueing between patrons—again, that is already in effect. The cleanliness of delivery drivers, meaning touching surfaces and other things, tables—

**Ms VALLENCE:** Have your members sort of generally indicated that they can achieve—generally achieve—those things?

**Mr LAMBERT:** Well, I mean I am just reading through them very quickly. It is just the pub test, so I will be through in just a second. I will go fast. Table-seated distance—that is defined by the Federal and State Governments. Condiments and no BYO—again, that is best practice. You do not want salt and pepper shakers or condiments on the table that are being touched by all the patrons, so they should be single serve at least for the time being. No buffets or open food displays—again, just common sense. No bar service—ultimately it would be almost impossible for patrons to stand at a bar and have social distancing in place. One that brought a little bit of confusion was cutlery. Ultimately if you can clean your cutlery at 80 degrees Celsius, then it would be COVID-safe, but if you cannot, then you would have to have recyclable or disposable.

Most businesses that either do not have that capacity to wash dishes or have under-bar dishwashers that do not get to 80 degrees would have normally had recyclable or takeaway cutlery. There is the tap-and-go being wiped down between each use. None of the things that I have mentioned so far cost anything, really. And then there are the general staff practices, which are from the WHO, the Federal guidelines for workplace health and safety, and then managing an outbreak in your business, which is from Safe Work Australia. So ultimately these are all just best practices that we have submitted to our members. It is not mandatory for them to follow, however; most of them are just to provide consumer confidence to be COVID-safe.

**Ms VALLENCE:** So you have found that generally they will be able to be taken up. Given the announcement by the Premier and that there is not another review for a number of weeks have you made any representations? What are you hearing from your members? Have you made any representations to the Government to be able to perhaps ease the restrictions or allow restaurants and cafes to open prior to the next review?

**Mr LAMBERT:** Not directly. I am sure the Premier and health authorities, because they sit on national cabinet, would have a copy of our guidelines. We continue to mention in the media that Victoria is not yet open until step 2, with no further details. We would certainly welcome the opportunity to continue to lobby to the Premier that using checklists, like Queensland, or best practice guidelines is the only way that any of us are actually going to be able to test any numbers of people together. I mean, ultimately it is a test. Putting 10 unrelated people into a business is a test to see if there are any spikes. If there is none, we move to 20. If there is none, we move to 100. If there are a lot, then we pull back.

**Ms VALLENCE:** That sounds reasonable. I represent the Yarra Valley—so a lot of restaurants and catering businesses and there is tourism, weddings and so forth—and I am certainly hearing from a lot of businesses in my area how devastating the crisis has been for them and their ability to continue. Some have been able to adapt and others have not. I would just be interested—because of some of the other restrictions or restricted activities, such as weddings and so forth—how have you seen that that has impacted some of your members, and what are you hearing from your members on that? I would also like to ask with the time remaining about the supply chain and the risk to the supply chain. For example, I know in my area and probably other areas there are a number of farming producers of high-end premium fruit and veg, for example, specifically for the restaurant and catering trade. Their businesses have basically been devastated as a result. What do you see as the risk to the supply chain also when restrictions are eased to get back up and running?

**Mr LAMBERT:** I will answer the first one. Caterers—their businesses have been decimated. They have ultimately nothing to do. They have not been able to pivot to take away or sub-delivery or app delivery. They certainly have been beneficiaries of all of the State and Federal stimulus; however, they have very little revenue coming in. So the catering industry expects to continue to be hit hard until there can be larger events. However, most caterers supply event venues, whether that is sporting arenas or whether that is wedding venues or churches. They typically supply facilities that are not slated to open until step three or beyond, so that particular cohort of our industry will remain depressed until there can be larger scale events which would allow for the need for caterers.

As far as the supply chain, what most people do not realise is that hospitality is one of the largest industries in total when you apply it to all of the industries that it supports. It supports the agriculture industry, it supports the construction industry, it supports employment—it is in the top five employers in every state—it supports wineries, it supports breweries, it supports furniture manufacturers, it supports glassmakers, it supports cutlery

makers and crockery makers. It supports so many different types of industries, and when our industry, hospitality, is closed or severely depressed it has far-reaching effects that depress jobs and businesses across your state and across Australia.

**The CHAIR:** Mr Lambert, thank you very much for your time today. Thank you for appearing before our Committee. We are out of time, unfortunately, but the Committee will follow up on any of the questions that might have been taken on notice in writing, and responses will be required within five days of the Committee's request. Thank you for your time. We wish you well and your members well during this difficult time. I declare this hearing adjourned.

**Committee adjourned.**