

[52,635.35] Hearings following COVID-19 pandemic state of emergency

Authored by *Geoffrey Code, Russell Byard and Patrick Doyle*

Effective from midday 16 March 2020, the Victorian Government declared a state of emergency in Victoria in relation to the COVID-19 pandemic, initially for a four-week period. At the same time, the Chief Health Officer of Victoria made orders under the Public Health and Wellbeing Act 2008 in relation to “non-essential mass gatherings” and “self-quarantine following overseas travel” to give effect to the declaration (see: <https://www.premier.vic.gov.au/state-of-emergency-declared-in-victoria-over-covid-19/>).

The Tribunal responded to the declaration by changing the method of conducting hearings.

Effective from 17 March 2020, the Tribunal cancelled all face to face hearings listed until 17 April 2020. Initial posts on the Tribunal’s website referred to the need to protect the health of individuals attending hearings, Tribunal members and Tribunal staff. On its website as at 25 March 2020, the Tribunal stated:

While VCAT venues are closed to the public including VCAT Magistrates' Court counters, VCAT is considered an essential service and will still be hearing some matters by telephone.

No face-to-face hearings are scheduled, and all non-critical cases listed up to and including **17 April 2020** will be adjourned for the foreseeable future. Residential Tenancies and Guardianship matters (and a small number of other critical matters) are being heard by telephone.

We are working hard to expand the range of matters that can be heard by telephone as soon as possible.

In other words, the Tribunal moved to conduct hearings of a small number of critical matters by telephone conference in accordance with s 100(1) VCAT Act.

For proceedings entered into the PEL, orders were progressively sent to the parties for final hearings, compulsory conferences and practice day or preliminary hearings listed between 17 March 2020 and 17 April 2020 that adjourned the hearing or conference to a date to be fixed.

For adjourned final hearings, the orders specified an administrative mention date in which parties were required to specify if there was agreement to determine the proceeding on the papers in accordance with s 100(2) VCAT Act and, if so, to file an agreed timetable for filing submissions, replies and, if relevant, draft permit conditions.

For adjourned compulsory conferences, the orders either vacated the conference or required the parties to specify if they agreed to conduct the conference by telephone and the final hearing on the papers, as above.

For adjourned practice day or preliminary hearings, the orders either:

- vacated the hearing and required parties to file any procedural orders they sought; or
- required the parties to file written submissions in response to the Tribunal’s stated purpose of the hearing and to file any procedural orders they sought.