HIGH COURT OF AUSTRALIA

11 November 2026

MINISTER FOR PLANNING v IGA RETAIL SERVICES PTY LTD (ACN 002 454 686) & ORS
[2026] HCA 43

Today, the High Court dismissed an appeal from the Court of Appeal of the Supreme Court of Victoria. The appeal concerned the application of the *Planning and Environment Act 1987* (Vic) ("PE Act") in relation to a proposed amendment to a planning scheme.

The third respondent, Greater Shepparton City Council ("the Council"), seeks to facilitate the development of the Shepparton North area. This requires an amendment to the Greater Shepparton Planning Scheme in accordance with the procedures laid down in Pt 3 of the PE Act. The first and second respondents, IGA Retail Services Pty Ltd and Shepparton Pty Ltd ("the IGA parties"), have interests in land covered by the proposed amendment. A panel was appointed under Pt 8 of the PE Act ("the Panel"). The Panel provided a report ("the Panel Report"), and the Council, by resolution, adopted the proposed amendment with changes recommended by the Panel in the Panel Report. The proposed amendment, as adopted, has been submitted to the appellant, the Minister for Planning ("the Minister"), for approval.

Section 39(7) of the PE Act provides that any amendment to a planning scheme which has been approved by the Minister is not made invalid by a failure to comply with Divs 1-3 of Pt 3 or Pt 8 of the PE Act (in relation to that amendment). Section 39(8) (read with s 39(1)-(5)) provides that, except by applying to the Victorian Civil and Administrative Tribunal as provided for by that section, a person "cannot bring an action" in respect of any failure to comply with Divs 1-3 of Pt 3 or Pt 8 in relation to an amendment to a planning scheme which has not been approved.

The IGA parties, by originating motion filed in the Supreme Court, contended that the Panel Report was affected by jurisdictional error and invalid. They sought an order from the Supreme Court quashing the Panel Report and consequential relief. The trial judge reserved the question of whether s 39 of the PE Act prevented the IGA parties from seeking that relief in their originating motion filed in the Supreme Court for the consideration of the Court of Appeal.

The High Court, by majority, held that the Court of Appeal correctly considered that s 39 of the PE Act did not prevent the IGA parties from seeking that relief. Section 39(8) of the PE Act cannot validly prevent a person with sufficient standing from commencing a proceeding in the Supreme Court seeking relief for jurisdictional error in respect of a failure to comply with Divs 1-3 of Pt 3 or Pt 8 of the PE Act in relation to an amendment which has not been approved. Further, no implication should be recognised from s 39(7), and other provisions of the PE Act, that any failure to comply with Divs 1-3 of Pt 3 or Pt 8 of the PE Act cannot amount to jurisdictional error.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.

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