Tribunal was entitled to reject the claims made in the case and was not acting unreasonably by refusing to act on evidence such as a letter from Amnesty International. It was therefore unnecessary to go on to consider whether "Wednesbury unreasonableness" was a ground for the issue of writs of mandamus or prohibition or the grant of injunctive relief under s75(v) of the Constitution.

Vidovich v Mildura Rural City Council & Ors
Supreme Court of Victoria, Court of Appeal, 15 April 1999
(1999) VSCA 49

Natural Justice—Apprehended bias—Flexible principles depending on circumstances—Tribunal directions hearing held without notice to all parties—No reasonable apprehension of bias

The then Victorian AAT's Planning Division's convening of an ex parte directions hearing to have explained to it the layout of a plan and how it related to an earlier plan, was held by the Supreme Court not to give rise to a reasonable apprehension of bias.

The solicitor for the first respondent was asked by the AAT to attend to clarify some of the material relevant to the proceedings as it had some queries about the relationship between two plans. The second plan lacked a 'north' orientation and street names which might have assisted in orientation. The AAT wished to understand the plan so as to identify tenants who might be affected by the proceedings, on whom it intended copies of the application should be served.

Counsel for the second respondent later told the Tribunal his client was concerned that an ex parte hearing had been convened without notice to the other parties, and submitted that the AAT should disqualify itself from further hearing the proceedings, since there was a reasonable apprehension of bias. The AAT did not accede to this request. The second respondent appealed to the Supreme Court on a question of law.

The Court noted that the principles of natural justice are not to be found in a fixed body of rules to be applied inflexibly at all times and in all circumstances, and also noted that the circumstances were unusual in that the AAT asked a party to attend a hearing to enable it to better understand confused drawings; the solicitor for that party was alert to a possible problem; and there was early disclosure by the AAT to persons affected of what had taken place in their absence. The Court was therefore not persuaded that the AAT erred in concluding that it should not disqualify itself on the ground of reasonable apprehension of bias.