

Council amalgamations: Woollahra to take NSW government to court over amalgamations

SMH March 7, 2016
Anne Davies
Senior Reporter



FORCED COUNCIL AMALGAMATIONS ANNOUNCED

NSW Premier Mike Baird announces details surrounding the state's local government amalgamations.

- Mike Baird sets out the path to fewer councils

The question of council amalgamations is heading to the courts after Woollahra Council, a vocal opponent of the NSW government's plan, issued a legal ultimatum to either drop the plans to merge it with Waverley and Randwick or face court action.

A letter from Woollahra Council's solicitors, Speed and Stracey, was sent to the Minister for Local Government, Paul Toole, on Monday afternoon, saying the council proposed to take legal action to block a merger and had briefed the eminent senior silk, Bret Walker, SC.

It gave the minister seven days to revoke his plan or Woollahra will seek a declaration in the courts that the government has no authority to proceed with the proposal.

The case, which is likely to be brought either in the Land and Environment Court or the Supreme Court, is based on the argument that the government is proceeding under the incorrect sections of the Local Government Act. New streamlined provisions to allow

amalgamations were introduced in 1999. Speed and Stracey argue that the Hansard debates show these were introduced to accommodate voluntary amalgamations, where councils agree to merge. The old provisions dealing with forced amalgamations were left in the act. These are much more cumbersome.



Woollahra council might join with Waverley and Randwick. Photo: Robert Pearce

"The purpose of the government which prepared and introduced these [1999] provisions and the Parliament which passed them could not have been clearer; it was to add to the existing provisions a new streamline procedure for boundary changes for councils that approved the changes to their boundaries (voluntary amalgamations)," Woollahra's lawyers wrote.

It gave the minister seven days to revoke his plan or Woollahra will seek a declaration in the courts that the government has no authority to proceed with the proposal.

The case, which is likely to be brought either in the Land and Environment Court or the Supreme Court, is based on the argument that the government is proceeding under the incorrect sections of the Local Government Act. New streamlined provisions to allow amalgamations were introduced in 1999.

Speed and Stracey argue that the Hansard debates show these were introduced to accommodate voluntary amalgamations, where councils agree to merge. The old provisions dealing with forced amalgamations were left in the act. These are much more cumbersome.

"The purpose of the government which prepared and introduced these [1999] provisions and the Parliament which passed them could not have been clearer; it was to add to the existing provisions a new streamline procedure for boundary changes for councils that approved the changes to their boundaries (voluntary amalgamations)," Woollahra's lawyers wrote.

"It was not to provide a streamline procedure for forced changes".



Bret Walker, SC, has been briefed by the Woollahra Council. Photo: Penny Bradfield

Woollahra's challenge ups the ante in the already simmering debate over amalgamations, particularly as the council is Liberal-aligned.

If the council is successful, it would bring to a halt the current process of fast-tracked inquiries by the Boundaries Commission followed by a ministerial decision, possibly as early as mid-year. The government would then need to restart the process for all council amalgamations under the correct part of the Local Government Act, leading to a year or more of political pain.

A spokesman for Mr Toole acknowledged he had received Woollahra's letter.

"This is not just a threat," said Woollahra mayor Toni Zelzer. "This is about the survival of our council and numerous surveys of our residents have shown that they want to remain separate."

Cr Zeltzer said many residents had written asking why the council hadn't taken legal action earlier, and that she was confident council had the backing of residents to pursue this avenue.

<http://www.smh.com.au/nsw/council-amalgamations-woollahra-to-take-nsw-government-to-court-over-amalgamations-20160307-gncmlc.html>