

Council mergers: Baird government smattering of victories in amalgamations battles

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The Baird government has won a smattering of victories in its legal battles with a number of Sydney and NSW councils facing forced amalgamations.

Justice Tim Moore of the Land and Environment Court dismissed proceedings brought by Hunters Hill, Lane Cove, Ku-ring-gai and Shellharbour councils in judgments handed down on Tuesday.



Understanding council mergers

In May 2016 the NSW State Government announced the forced amalgamation of more than 40 local councils into 19 new councils, but what are the legalities of this contentious issue?

The decisions remove obstacles in the way of the government's proposed amalgamations of those councils with their neighbours.

But Justice Moore found "defects" in reports prepared by delegates into the proposed mergers of local governments involving Mosman, North Sydney and Strathfield councils.

Those decisions mean those councils could still be merged, but the Boundaries Commission or a delegate would have to redo sections of reports and inquiries that recommended mergers.



Counsel for Paul Toole committed not to proceed with mergers for at least a week. Photo: Daniel Munoz

Counsel for Local Government Minister Paul Toole committed not to proceed with mergers involving Hunters Hill, Ku-ring-gai, Lane Cove or Shellharbour for at least another week.

Those councils could appeal Justice Moore's decisions and further delay their proposed mergers.

State governments have the power to merge councils under the *Local Government Act*.

But the Act also dictates that, should the government attempt to merge councils through a decision of the Boundaries Commission, the Commission or its delegate is required to consider a range of factors - including the financial advantages or disadvantages of a merger, and the history and amenity of an area facing merger.

Justice Moore found the delegate considering the mergers involving Mosman and North Sydney had failed to pay due attention to one aspect of one relevant section of the Act.

He found that the delegate considering the merger involving Strathfield had failed to consider two matters.

As such, the reports prepared by those delegates are considered incomplete and the councils cannot be merged.

Justice Moore also found the delegate who had considered the Ku-ring-gai merger failed to consider its impact on an area just south of the M2 Motorway but that, because that land had since been incorporated into a new Parramatta City Council, there was no use in setting aside the delegate's report.

Hunters Hill and Lane Cove are proposed to merge with Ryde. Shellharbour is proposed to merge with Wollongong. Ku-ring-gai is to merge with Hornsby.

Woollahra Council is separately appealing a decision that failed to block its merger with Waverley and Randwick.

Mosman and North Sydney councils are proposed to merge with Willoughby. Strathfield is proposed to merge with Canada Bay and Burwood.

The mayor of Hunters Hill, Richard Quinn, said he was "personally disappointed" in the outcome of the case, but the council would hold a meeting in the next week to decide whether or not to appeal.

"The fundamental issue that was at stake here, from our council's point of view, was that the NSW government can do this without formally asking the people through a plebiscite or vote," Cr Quinn said.

"We had had a poll that showed 80 per cent of our community was against forced amalgamation," Cr Quinn said.

Cr Quinn said his council had spent about \$230,000 opposing its merger with Lane Cove and Ryde.

"There's a principle at stake here, and that is the principle of people having a direct say in how they are governed."

The majority of councils that had not launched legal challenges to their mergers have already been amalgamated. Other councils where mergers are pending include Armidale Dumaresq, Guyra, Uralla and Walcha; Bathurst and Oberon; Blayney, Cabonne and Orange; Newcastle and Port Stephens; and Randwick, Waverley and Woollahra.

<http://www.smh.com.au/nsw/council-mergers-baird-government-wins-partial-victories-in-amalgamations-battles-20160920-grk89e.html>