

Ku-ring-gai and Lane Cove councils lose court battle over mergers

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Jessica Rapana,



*Lane Cove mayor Deborah Hutchens outside the Land and Environment Court.
Picture: John Appleyard*

Ku-ring-gai and Lane Cove councils have been dealt a blow in their fights against amalgamation this week after their legal challenges were thrown out of the Land and Environment Court.

Both councils have been embroiled in costly legal battles with the State Government to remain independent for several months — but on Tuesday afternoon their cases were rejected.

The councils now have until September 28 to appeal the court's decisions.

The State Government previously gave an undertaking to withhold from making any merger proclamations until two business days after the court's findings.

However, due to the length of the judgments handed down on Tuesday, including one 200-pages long, Justice Tim Moore requested the government extend this period to seven days.

It is unclear whether either council intends to appeal its decision.

Ku-ring-gai Council previously resolved to appeal any adverse outcome, however the *North Shore Times* understands councillors will meet in the coming days to decide whether to appeal.

Lane Cove Council was also expected to meet before the deadline to decide whether to appeal.

If the councils do not proceed with these appeals, they could be merged as soon as next week.

However, it is understood Hunters Hill Council intends to lodge a right of appeal, which would further delay the amalgamation of Lane Cove Council with Hunters Hill and Ryde.

Justice Moore dismissed proceedings put forward by Ku-ring-gai Council, set to be merged with neighbouring Hornsby Shire, despite finding the delegate's report was partially flawed.

He found independent delegate Garry West had failed to "give adequate consideration" to the impact of the proposed merger on ratepayers who lived south of the M2 motorway, which had been part of the Hornsby local government area.

However, due to this particular area being excised in recent months and incorporated into newly merged Parramatta City Council, he found there would be "no functional utility" in ordering Mr West to remedy the error. He subsequently dismissed the proceedings.

It is unclear whether Ku-ring-gai will be ordered to pay the State Government's legal costs with Justice Moore reserving his decision on costs until a future hearing.

Lane Cove Council case against the State Government to avoid a forced merger with Hunters Hill and Ryde was also thrown out, after Justice Moore found the complaints were "without foundation".



Former Ku-ring-gai mayor Cheryl Szatow outside an anti-amalgamation banner.

Lane Cove Council was ordered to pay the State Government’s legal costs.

However, payment of these costs was deferred for two weeks to allow parties to consider whether to appeal the cost orders.

Ku-ring-gai deputy mayor David Ossip said the judgment had not come as a surprise.

“For a long time, it has been abundantly clear that all paths lead to amalgamation,” he said.

“Council’s legal action has proved futile and only delayed what is an inevitable outcome.

“An appeal would similarly achieve nothing, and come at great cost to the community.”

Lane Cove mayor Deborah Hutchens said she was “disappointed but not surprised”.

“We are feeling that we have wasted enough ratepayers money at this point we don’t want to waste anymore,” Cr Hutchens said, who was in the minority of councillors who voted against pursuing legal action.

“We need to stop burying our head in the sand,” she added.

<http://www.dailytelegraph.com.au/newslocal/north-shore/kuringgai-and-lane-cove-councils-lose-court-battle-over-mergers/news-story/8980f96f210f2685ec82704eb0f3ecbe>