

North Sydney and Mosman councils given ‘stay of execution’ after technical victory in Land and Environment Court

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Mosman deputy mayor Roy Bendall and North Sydney mayor Jilly Gibson outside the Land and Environment Court: John Appleyard

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Mosman and North Sydney Councils have survived to fight another day.

In a major blow to the Baird government the two councils celebrated a landmark victory this week in the battle against their planned demise.

The Land and Environment Court ruled in favour of their anti-merger challenge on one point — leaving the State Government to pick up the legal bills.

North Sydney and Mosman have been earmarked to merge with Willoughby in the drive for council mergers across Sydney.



'Temporary victory': Mosman mayor Peter Abelson.

The court's decision was met with mixed reactions. Mosman mayor Peter Abelson was delighted with the judge's finding, but called it a "temporary victory".

"At this stage, we don't know the size of the victory or the length of the victory," he said.

The Judgement was welcomed by North Sydney mayor Jilly Gibson but she forecast that the council may only survive a few more months. She described it as a win on one "very small point".

"We've had a stay of execution," Cr Gibson said.

"It won't change the inevitable but we might get a better outcome. A merger between North Sydney and Mosman would best serve the residents of both communities."



North Sydney mayor Jilly Gibson. Picture: John Appleyard.

Her colleague Cr Zoe Baker called on Premier Mike Baird to sack Local Government minister Paul Toole.

Cr Baker believes the court's finding demonstrated that the State Government had to listen and consult with communities rather than forcing an outcome. She described the merger process as "flawed" and believes North Sydney can eventually win its fight to stay independent.

"I'm going to fight to ensure that we do," she said.

"I think we can live to fight another day."

Mosman Cr Carolyn Corrigan spoke on behalf of anti-merger groups Mosman Against Forced Amalgamation and Save Our Councils Coalition and called the win "a wonderful day for democracy".

Mosman Council held an extraordinary meeting about the matter on Wednesday night.

Deputy mayor Roy Bendall said the outcome was "a victory for justice".



Mosman deputy mayor Roy Bendall.

“It’s a slap in the face to the State Government’s push for amalgamation on ideological grounds,” he said.

“We call on the government to abandon forced amalgamations or in the alternative, call a plebiscite.”

Cr Simon Menzies called the win “a Pyrrhic victory” and said he suspected that Mosman would be amalgamated next month after the minister received a “finetuned” report.

JUDGEMENT BY JUSTICE TIM MOORE

I have concluded that only one of the specific complaints raised by the Councils which challenged this amalgamation is valid. This means that the Delegate who had been assigned the task of inquiring into, and reporting on, this proposed amalgamation had failed, adequately, to have regard to one aspect of the elements mandated by s 263(3) of the Local Government Act 1993 (the Local Government Act) as part of his inquiring into and reporting upon this proposed amalgamation.

The consequence of this failure is that the report prepared by the Delegate, and provided by him to the Local Government Boundaries Commission (Boundaries Commission) and the Minister, does not constitute a report, in this regard, in satisfaction of the statutory requirements of the Local Government Act.

The outcome is that the Delegate has not completed the task for which he was appointed and thus, at the present time, there is no proper statutory foundation for this proposed amalgamation. This means that this proposed amalgamation remains in the hands of the Delegate.



Karen Pensabene from Save our Strathfield with Mosman councillor and Save our Councils president Carolyn Coorigan outside the Land and Environment Court. Picture: John Appleyard.

<http://www.dailytelegraph.com.au/newslocal/mosman-daily/north-sydney-and-mosman-councils-given-stay-of-execution-after-technical-victory-in-land-and-environment-court/news-story/4739a0406de695e5baf082df16fe8d0e>