

SOCC REPORT ON WOOLLAHRA COUNCIL APPEAL 22 AUGUST 2016

Woollahra Council's appeal against the decision of Justice Preston upholding the State Government's forced amalgamation process for Woollahra, Waverley and Randwick was heard on Monday 22 August. The Court of Appeal has reserved its decision.



Cr Luise Elsing, barrister Chris Birch SC, Woollahra Mayor Toni Zeltzer, solicitor Robin Speed from Speed & Stracey and Cr Anthony Marano after the appeal hearing on 22 August.

It is probable that the ten other court cases challenging due process and awaiting decision will be delayed until after Woollahra's judgement is handed down.

Woollahra Council made a number of submissions to the Court summarised as follows:

1. The requirement for the Delegate to hold an Inquiry in the presence of the public involves more than what he did – which was simply explaining process and listening to submissions. It also requires the Delegate to play an active role in answering questions, providing relevant information and investigating issues, including concerns relating to KPMG. One of the purposes for such an Inquiry is to engender public confidence. It was an error for the primary Judge to find that the Delegate could confine his role at his choosing as he did.
2. The Delegate was required to have regard to the financial consequences to the residents and ratepayers of 'the areas concerned' resulting from the proposed amalgamation. It was submitted this meant consequences to those residents in the Woollahra Council area, and to those in each of the other two Council areas. The Delegate and the primary Judge were in error in determining that it was sufficient to simply look at the financial consequences collectively as applying to the whole amalgamated area.
3. The Delegate was required to examine all the factors listed in s 263(3) of the Act not just to have regard to them, as contended by the NSW Government and as held by the primary Judge. For example, the examination by the Delegate had to ascertain if the \$124 million of savings contended for by KPMG had a proper basis, including that the assumptions and modelling were appropriate. The Delegate could not simply accept that figure by having regard to it, rather than by properly examining how it was calculated.
4. Other submissions included that KPMG was not independent and that the Boundaries Commission had denied Woollahra Council natural justice by refusing to let it comment on the Delegate's report.

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