

Council mergers: When Mike Baird's government only pretends to listen, it invites trouble

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Protesters shut down council meeting

Sacked mayors and councillors seized control of a Sydney council chamber after hundreds of protesters forced the meeting to be shut down.

- [Government ordered to reveal KPMG's role in mergers](#)
- [Government push for mergers suffers setback](#)
- [\\$15 million council grant program](#)
- [Baird delays council polls at cost of lost trust](#)

Ever been "consulted" on something and just known that those asking the questions are going to do what they want anyway, regardless of what you say? Ever suspected the reason you are being "consulted" is not so your ideas can be heard, but so that someone can say they have consulted?

We've probably all been there.

And following a series of [legal hearings](#) this week, Mike Baird's NSW government may be caught out committing that most annoying of social faux pas: pretending to listen.

The issue is council amalgamations.



A consultation meeting with Hunters Hill community members at the Hunters Hill Sailing Club in February. Photo: James Brickwood

Although the government has successfully dissolved 42 NSW councils to create 19 new ones, other councils are fighting their amalgamation in court. They are arguing, in essence, that Premier Mike Baird and his Minister Paul Toole knew all along what they wanted to do, and merely pretended to "seek the views of electors" – as they are required to do under the Local Government Act.

Take the following example. Under the Act, government representatives are required to seek the views of electors in councils slated for mergers through public meetings and submissions, or through holding a formal poll.

All 28 delegates acting for the government in consultations this year opted to hold public meetings instead of a poll. As one reader pointed out this week, and assuming the two options were equally attractive to delegates trying to "seek the views of electors", that is like tossing a coin and landing 28 heads in a row. And the odds of that are 268 million to one. Unless....

For many people in pockets of NSW, it is the perception that the odds have been stacked against them that has led to white hot anger about the public process used by the government to merge councils. (In total 70 existing councils are planned to be dissolved to create 31 new councils; 28 of those existing councils have not yet been dissolved, because of either legal challenges or for further consultation.)

Thousands of people across the state turned out to tightly managed public hearings earlier this year, where they were invited to present their views to delegates representing a supposedly independent Boundaries Commission.

It is partly the conduct of these meetings that has formed the basis for a flood of court cases in the Land and Environment Court brought mainly by councils in Liberal or National strongholds. The councils have alleged the merger hearings lacked fairness and proper process and failed to meet the basic requirements of the Act.



Minister for Local Government Paul Toole conceded there had been errors in the public hearings in relation to the amalgamation of Strathfield Council with Canada Bay and Burwood councils. Photo: Daniel Munoz

KPMG issued a statement on Thursday strongly denying any issue of independence in its work for the government, and saying that its eventual finding that there was likely to be a financial benefit from mergers were consistent with other analysis.

Baird called Labor's attacks in Parliament this week on the accounting firm's report "desperate".

David Shoebridge, the Greens' spokesman on local government, said KPMG's role as both adviser to the government and assessor of the financial benefits of each merger was equivalent to marking their own homework.

There are, however, multiple fronts to the legal challenges that have been launched by different councils.

In its challenge, Woollahra Council has raised the fact that the delegate hearing submissions on its merger with Waverley and Randwick, Rob Lang, refused to answer questions about the KPMG report. Woollahra also says the delegate appears to have relied on a report commissioned by Randwick Council on potential savings, but did not make this clear to the other councils. A decision on Woollahra's challenge is expected soon.

Ku-ring-gai Council, meanwhile, has begun legal proceedings to ask for the assumptions behind the KPMG report, arguing that the failure to give the public this information meant that there was inherent unfairness because the community could not challenge the findings.

On Thursday, Ku-ring-gai's barrister, Geoffrey Kennett SC, also told the court the notice of the public meeting published in *The Sydney Morning Herald* was inadequate because it simply said the meeting was at the Pymble Golf club and did not give an address. The Pymble Golf Club is actually in St Ives; there is another golf course in Pymble, Avondale. "People shouldn't have to do further research in order to attend a public meeting," he said. Kennett also cited the fact that the meetings were advertised largely during the school holidays.

And there is the case by a cluster of regional councils, represented by former Liberal MP and barrister, Peter King. King argued that the state government has used the wrong part of the Local Government Act to pursue mergers, the part of the Act designed for voluntary mergers, not forced.

The government will be able to point to the fact that some mergers did not proceed because of the public hearings and delegate's reports. The proposed merger between Hawkesbury and the Hills Shire Council, for instance, failed because the delegate recommended against it.

Nevertheless, the continued undermining in court of the council merger process adds up to a roiling storm for Mike Baird, which is gathering force as the federal election looms.

It may be unlikely the voters of Mosman, Hunters Hill or Strathfield will change their votes in a federal election because of local government elections, but they are certainly angry judging by the proliferation of anti-amalgamation signs in front gardens.

But the real risk for Baird is that this will drag on and on. If the councils win, the government will probably be able to hold fresh public inquiries and do so by the letter of the law. But that will take time and string out the concerns the government is undermining the capacity of residents to shape their own neighbourhoods – which tends to get them angry.



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