

# Big victory for Baird mergers as Woollahra Council loses court challenge

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**A Sydney council has decisively lost its legal challenge against the state government's plans to merge it forcibly with other councils, in a dispiriting sign for a string of other councils that have mounted challenges against the plans.**

**It took only minutes for Chief Judge Brian Preston of the Land and Environment Court to dismiss Woollahra Council's challenge to Baird government plans to merge it forcibly with Randwick and Waverley councils.**



## 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?

Costs were awarded against the council, in what is likely to be interpreted as a major victory for the government.

Judge Preston dismissed many of the fundamental points the council raised against the government's approach, which would decrease the number of councils in NSW by about 40.

The news will be a blow to a string of other Sydney councils that have voted to commence legal action, including North Sydney, Botany Bay, Ku-ring-gai, Mosman, Strathfield and Hunters Hill councils. Including a couple of regional challenges, nine mergers have been delayed by legal action.



*Victory: NSW Premier Mike Baird. Photo: Jessica Hromas*

Those councils' cases rest on many of the same principles advanced by Woollahra, but their cases are challenging different aspects of the manner in which the government made and executed the plan for mergers.

"I'm very disappointed," said the Liberal mayor of Woollahra, Toni Zeltzer. "We fought the fight on behalf of the community. They didn't say no [to mergers] because of some elitist values; it's because the impact on rates was going to be considerable."

Ms Zeltzer said council lawyers would consider carefully before deciding whether to appeal as she was mindful of the costs already borne by residents.

The council has only a few days to appeal against the verdict. That window closes on Monday. It is not yet clear if the council will appeal but it has said it is considering its options.

If it does not, that means the state government could begin the process of merging the councils as early as next week. The government is understood to be waiting for Woollahra's response to the verdict.

Other Sydney councils merged in May. But those mounting legal challenges are exempt until their avenues for appealing the government's move are exhausted.

Local Government Minister Paul Toole said the legal win for the government showed that the government had followed the correct processes when merging NSW councils.

Woollahra had allocated most of its \$180,000 annual litigation budget to fighting the case. Paying the government's costs is likely to blow out that budget considerably.

Other councils mounting challenges, such as Ku-ring-gai, have already shelled out more than \$120,000 in costs.



*Mayor of Woollahra, Toni Zeltzer at the Woollahra Council Chambers in Sydney. Photo: Dominic Lorrimer*

Woollahra had argued the court case was a defensible use of ratepayers' money because they argued rates would rise under a merger by between 20 and 50 per cent. Rates of merged councils will be frozen for the first four years of any merged councils.

Councils opposing mergers have collectively spent many times that on polls, plebiscites and consultants to build the case against being merged.

"At the end of this mega-spend... what have we to show for it? Not much, I would say," said Craig Chung a Ryde Liberal councillor. Ryde voted against legal action but its proposed merger with Hunters Hill and Lane Cove has been delayed by a legal challenge mounted by another council.

Greens MLC David Shoebridge acknowledged the decision was a setback.

But he denied it was the end of the road for Woollahra and the string of other councils fighting the government's plans to amalgamate them with other councils.

"This is only the first stage in the legal challenge with an inevitable appeal being filed in the Supreme Court in coming days," he said.

"Not only will we see an appeal in this case, but there are a series of separate cases, with separate legal points and unique factual circumstances from other councils that are also before the Courts."

<http://www.smh.com.au/nsw/big-victory-for-baird-mergers-as-woollahra-council-loses-court-challenge-20160720-gq9h4k.html>