

# Woollahra loses merger appeal, hints at High Court challenge

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It is arguably Australia's most exclusive enclave, counting the cream of nation's political, legal and financial circles among its swathes of high-profile ratepayers.

But even as Woollahra Council's legal fees broach the \$1 million mark, the council's bid to retain its exclusivity could become more expensive after the NSW Supreme Court of Appeal threw out its appeal against a forced merger with Randwick and Waverley Councils on Thursday.



## **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?*

In the traditionally blue-ribbon heartland, home to Prime Minister Malcolm Turnbull and his harbourside mansion, Woollahra Council has led the charge against the Baird government's forced council amalgamations through the NSW courts.

It suffered its latest setback on Thursday when the panel of three judges on the NSW Supreme Court of Appeal unanimously dismissed the council's appeal,

finding no merit in its arguments that the proposed merger with its neighbouring councils was invalid.



*"The court has found correct processes were followed": Paul Toole. Photo: Daniel Munoz*

But more than six months after the merger announcement in May this year, the fight appears to be far from a conclusion for the Baird government, with the stage now set for a High Court showdown.

Responding to the judgment on Thursday, Woollahra mayor Toni Zeltzer labelled the decision "disappointing" but confirmed the council's lawyers were already considering "our prospects for an appeal to the High Court".

"We still firmly hold the view there are no benefits for the Woollahra community under this proposed merger, only costs. We have always put our community first and we will continue to do so in considering our next step," she said.

In its bid to retain its independence, the council has marshalled some of its high-profile residents in support of its anti-merger campaign.

Among the more vociferous was Channel 7 commercial director Bruce McWilliam, who labelled the merger a "socialist nightmare" in an interview with *The Australian* newspaper earlier this year.

Last year, Aussie Home Loans boss John Symond added his voice to concerns about rate rises, while entertainer Vince Sorrenti was chagrined by the potential erosion of Woollahra's identity.



*"We have always put our community first and we will continue to do so":  
Woollahra mayor Toni Zeltzer, Photo: Dominic Lorrimer*

"The people who live in Rose Bay or Edgecliff don't have the same needs and wants as the people living in Coogee or Randwick," Sorrenti said.

In a written judgment published on Thursday afternoon, President of NSW Court of Appeal Justice Margaret Beazley disposed of each of the council's grounds for appeal in swift succession, finding it had suffered no procedural unfairness and rejecting its claim that a KPMG report at the centre of merger proposals had been "misleading".

With other councils awaiting the outcome of the Woollahra case before deciding whether to proceed with their own Supreme Court appeals, the victory was an important one for the government.

Local Government Minister Paul Toole described the outcome as a vindication of the government's processes and hinted the clock was now ticking for the remaining councils involved in the 11 pending merger proposals.

"The court has found correct processes were followed when the proposal to merge Woollahra, Randwick and Waverley councils was considered.

"It is now for those other councils that have initiated legal proceedings to review and consider this decision."

The legal challenges to the statewide mergers have proved a long-running headache for the government and, after six months of appeals and the 11 mergers involving 29 councils still pending, there is still no end in sight.

Ku-ring-gai, Shellharbour City, Mosman and North Sydney council will have their appeals from the Land and Environment Court heard in the Supreme Court early next year.

A string of other councils, including Hunters Hill, Lane Cove, Strathfield, Oberon Shire and Cabonne Shire have also indicated their intent to continue their legal appeals.

Last month, the NSW Electoral Commission advised that the protracted legal challenges meant councils [faced delays of up to three years before their next election could be held.](#)

It is an outcome the NSW government is keen to avoid ahead of the 2019 election, with the Orange byelection loss in November touted by government critics as an early litmus test.

Phil Jenkyn from the Save our Councils action group said the councils were undeterred by Woollahra's outcome on Thursday.

"They will continue to fight. Woollahra is not the precedent. It is not the end. We are never giving up until we win," he said.

Greens MP and local government spokesman David Shoebridge applauded Woollahra Council's resistance to the merger and said the decision was worthy of further appeal.

"When these cases started, it was always likely the final legal decision would have to come from the High Court.

"We stand by our long-standing commitment to support legislation in any new Parliament to allow residents a binding plebiscite to unwind Baird's forced mergers in 2019."

<http://www.smh.com.au/nsw/woollahra-loses-merger-appeal-hints-at-high-court-challenge-20161222-gtgod3.html>