



LEGISLATIVE COUNCIL

**The Honourable Sophie Cotsis MLC**  
Shadow Minister for Local Government  
Shadow Minister for Housing  
Shadow Minister for the Status of Women

Margaret Wilkinson  
Hon Secretary  
Tomaree Ratepayers and Residents Association  
PO Box 290  
NELSON BAY NSW 2315

Thursday, 18 September 2014

Dear Ms Wilkinson

Please find enclosed a copy of a letter which I have sent to the Hon Paul Toole MP, Minister for Local Government, regarding your recent correspondence concerning Port Stephens Council.

I have asked the Minister about this issue recently during Budget Estimates. I have enclosed relevant sections of the transcript regarding these matters. I will continue to hold the NSW Government accountable for their oversight of local government in Port Stephens.

Yours sincerely

A handwritten signature in blue ink that reads 'Sophie Cotsis'.

**SOPHIE COTSIS**



LEGISLATIVE COUNCIL

**The Honourable Sophie Cotsis MLC**  
Shadow Minister for Local Government  
Shadow Minister for Housing  
Shadow Minister for the Status of Women

The Hon. Paul Toole MP  
Minister for Local Government  
GPO Box 5341  
SYDNEY NSW 2001

Thursday, 18 September 2014

Dear Minister

Please find enclosed correspondence which I have received from Margaret Wilkinson, Secretary of the Tomaree Ratepayers and Residents Association, seeking an investigation by the Office of Local Government into Port Stephens Council.

As you will recall, I asked you about the Tomaree Ratepayers and Residents Association's serious concerns regarding Port Stephens Council and the conduct of the 2012 elections at last month's Budget Estimates hearing. I note that since that time, there have been number of revelations at the Independent Commission Against Corruption relevant to the Port Stephens area.

I ask that you examine the matters raised by the Tomaree Ratepayers and Residents Association and provide a public response to these concerns as quickly as possible.

Please contact my office on (02) 9230 2080 should you require any further information.

Yours sincerely

A handwritten signature in blue ink that reads 'Sophie Cotsis'.

**SOPHIE COTSIS**

**The Hon. SHAOQUETT MOSELMANE:** The question is, I think, what is your view, given that the Committee will be—

**Mr SCOT MacDONALD:** Point of order: We seem to have two chairs here at the moment, you and Mr Shaoquett Moselmane who is giving a running commentary on a question.

**The Hon. SHAOQUETT MOSELMANE:** We have the right to ask questions.

**CHAIR:** That is not a point of order. However, I remind the member that asking the Minister his opinion would be ruled out of order. Would you like to rephrase the question?

**The Hon. SOPHIE COTSIS:** Minister, why will you not hold the lord mayoral by-election on the same day as the two State by-elections?

**Mr PAUL TOOLE:** That will be a decision of the electoral commissioner and certainly we will be waiting for that advice that will be given in due course.

**The Hon. SOPHIE COTSIS:** But under the Local Government Act you can provide the date. Why will you not state the date? It will be cheaper; it will be efficient and effective to ensure that people will vote on the same day. Why will you not state a date?

**Mr PAUL TOOLE:** As I said, the electoral commissioner is the person who is responsible for identifying when that election will be held and certainly that will be kept in accordance with the Act.

**The Hon. SOPHIE COTSIS:** Will it not reduce confusion that might lead to people receiving fines because they did not know they would have to vote twice, if you do not hold the lord mayoral by-election on the same day as the State by-elections?

**Mr PAUL TOOLE:** At the end of the day people have to go to the elections under the circumstances that exist and I think the Newcastle community can feel very let down by the elected representatives that they have seen over the past week. They have seen the allegations that have been coming out of the Independent Commission Against Corruption. Certainly I am not going to have a running commentary with you about those matters.

**The Hon. SOPHIE COTSIS:** I am not going there; I am asking you about holding the lord mayoral by-election on the same day as the two State seat by-elections. For the convenience of Hunter families, is it not your obligation that you call for the election to be held on the same day?

**Mr PAUL TOOLE:** As I have answered you already, under the electoral commissioner we will be making that determination in the near future and obviously we will be taking into consideration that there are already going to be a number of elections held in the Hunter region.

**The Hon. SOPHIE COTSIS:** Minister, in Budget Paper No. 3, chapter 7, page 10 it talks about the Government's oversight of local government. Are you aware of concerns by the Tomaree Ratepayers and Residents Association and also an investigation by the media outlet in the Hunter, the *Newcastle Herald*, regarding Port Stephens Council, specifically regarding the conduct of the 2012 elections and possible conflicts of interest?

**Mr PAUL TOOLE:** We understand that a report is given in at the end of each local government election to the Division of Local Government. I will refer to the chief executive officer to clarify that position.

**Mr WOODWARD:** I am not specifically aware of that particular allegation.

**The Hon. SOPHIE COTSIS:** The Tomaree Ratepayers and Residents Association has forwarded correspondence to the Electoral Funding Authority about the conduct of the local government elections. As you are aware, Port Stephens Council also conducted their own election, they chose another entity and the *Newcastle Herald* reported in early March, April and May an investigative series about the conduct of the election. Why is your department not aware of this?

**Mr WOODWARD:** Because the Electoral Funding Authority would be the body that would actually look into that.

**The Hon. SOPHIE COTSIS:** But you also oversee the process in terms of the elections.

**Mr WOODWARD:** Not accusations; we do not look at that sort of accusation about conduct. We get reports from the council about how the process was followed but in terms of any accusations of any inconsistencies or any other accusations; we are not empowered to do that; that is the Electoral Funding Authority.

**The Hon. SOPHIE COTSIS:** Minister, will you take any action with respect to the concerns that have been raised by this ratepayers association?

**Mr PAUL TOOLE:** Obviously you are putting it forward to me today and I would certainly be encouraging them to take it to the New South Wales Civil and Administrative Tribunal, to refer that matter onto them.

**Mr DAVID SHOEBRIDGE:** You want them to begin their own civil proceedings rather than you act as Minister?

**The Hon. SOPHIE COTSIS:** But your office has responsibility for this area. Your office should be on top of this issue and I am asking you what action you will take. There are some serious allegations here and I am asking you what action you are going to take today about these allegations that have been made, not only by the newspaper but also by the Tomaree Ratepayers and Residents Association?

**Mr PAUL TOOLE:** As I said, there are certainly a number of processes. If they feel some impropriety has occurred in any way, then I would be asking them to refer it to the appropriate channels. In that situation it could also be referred to the Independent Commission Against Corruption.

**The Hon. SOPHIE COTSIS:** Will you commit the Division of Local Government to undertake an investigation into the concerns about Port Stephens Council?

**Mr PAUL TOOLE:** I will have a look and see if there is any correspondence that has been received in the past in relation to that matter and obviously see where it has actually been referred to in the past.

**The Hon. SOPHIE COTSIS:** If that is the case, will you also provide a report to Parliament about the outcome of that investigation?

**Mr PAUL TOOLE:** I think I have responded.

**The Hon. SOPHIE COTSIS:** Minister, I am happy to table the articles and I am also happy to provide a link to the concerns that the Tomaree Ratepayers and Residents Association has. One of the other concerns that the Tomaree Ratepayers and Residents Association has is that there is continued resistance by Port Stephens Council to release comprehensive information electronically on their website in association with development applications, claiming restrictions to the Copyright Act. What is your advice in view of the fact that these are residents, part of the community, who want access to information and they are being restricted?

**The Hon. NIALL BLAIR:** Point of order: Are you asking for running commentary, opinion and advice from the Minister? I think that the question should be ruled out of order.

**Mr DAVID SHOEBRIDGE:** I assume it is targeted to the legislative amendments that went through our House in the last six months and addressing that.

**The Hon. SOPHIE COTSIS:** That is right.

**CHAIR:** There is no point of order but the Minister is entitled to answer the question as he thinks fit.

**Mr PAUL TOOLE:** At the end of the day we are not sure of the information that you are talking about. I am not sure if this was done in a confidential committee of the whole, which can be done by councils. I am not sure that you understand that councils can deal with matters.

**The Hon. SOPHIE COTSIS:** But what action—

**Mr PAUL TOOLE:** I am talking about the individual matters of the councils in determining their decision here.

**The Hon. SOPHIE COTSIS:** But they must release that information. Ratepayers are not getting that information.

**Mr PAUL TOOLE:** The councils must release—and I will just explain to you because you may not be sure of the process—if it is involved in a confidential committee of the whole—

**The Hon. SOPHIE COTSIS:** I do not need to understand.

**Mr PAUL TOOLE:** That is the thing, I know you do not understand and I am trying to help you.

**The Hon. SOPHIE COTSIS:** No, you do not understand, Minister.

**The Hon. SHAOQUETT MOSELMANE:** Point of order—

**Mr PAUL TOOLE:** I am trying to help you understand how councils operate. As a confidential committee of the whole the recommendations are what the obligation is to be released from councils.

**The Hon. SOPHIE COTSIS:** This is open information that this council is not providing to their residents. What action will you take? What is your advice to the mayor?

**Mr PAUL TOOLE:** There are a number of actions that the Tomaree Ratepayers and Residents Association could take. It might be an opportunity for them to sit down with the mayor and the general manager to discuss the issues that have been put forward by them.

**The Hon. SOPHIE COTSIS:** He will not see them.

**Mr PAUL TOOLE:** You have asked me my opinion as to what actions—

**The Hon. SOPHIE COTSIS:** What action will you take as the Minister who oversees the Act?

**Mr PAUL TOOLE:** —and I have given them a pathway, but you do not like the answer.

**The Hon. SOPHIE COTSIS:** We will move on because you are not going to answer. Minister, in relation to the suspended councillor Ivan Petch, on 30 June the Independent Commission Against Corruption found councillor Ivan Petch had engaged in serious corrupt conduct. You suspended him and gave him 28 days to show cause. Why is he still a councillor?

**Mr PAUL TOOLE:** Can I just make the point that as the local government Minister I have very limited and specific powers when it comes to taking action against individual councillors. There are three methods by which I can dismiss a councillor from civic office. The first is when there is a finding that comes out of the Independent Commission Against Corruption; then I make a submission to the Governor to dismiss a councillor. The other one would be if there are criminal proceedings that are made against an individual councillor at a particular time and, thirdly, if there is an admission of serious misconduct from an individual councillor. In this situation, the ICAC handed down its report—

**The Hon. SOPHIE COTSIS:** But you said on 30 June that you were taking swift action to suspend the Ryde city councillor. He has been found to have engaged in serious corrupt conduct. What action are you taking?

**Mr SCOT MacDONALD:** Point of order: A question has been asked and the Minister is in the middle of an answer, which seems very relevant to me. Can he be allowed to answer the question?

**The Hon. SOPHIE COTSIS:** He has finished.

**Mr PAUL TOOLE:** I make the point to you, having been in the role for 15 weeks, and having been a former mayor myself, the community are sick of these actions that are taking place, the petty squabbling and the waste of ratepayers' money in relation to these matters.

**The Hon. SOPHIE COTSIS:** How will the ratepayers have confidence if you do not report to the Parliament?

**Mr PAUL TOOLE:** It is certainly a matter that is continually being monitored. You cannot sit there and give me direction when it was your Government that did nothing about those councils. They showed contempt for their performance as councils and you ignored them.

**The Hon. SOPHIE COTSIS:** With respect to Port Stephens Council will you commit to reporting to the Parliament about an investigation in relation to the concerns I have raised with you today?

**CHAIR:** Order!

**The Hon. NIALL BLAIR:** He answered that.

**The Hon. SOPHIE COTSIS:** I want it on the record.

**Mr PAUL TOOLE:** I think that question has been answered.

**The Hon. SOPHIE COTSIS:** You will report?

**Mr DAVID SHOEBRIDGE:** Mr Woodward, you said there had been a number of complaints made in relation to section 451. Are any of those in relation to Auburn City Council?

**Mr WOODWARD:** Yes.

**Mr DAVID SHOEBRIDGE:** How many?

**Mr WOODWARD:** I would have to check, but I am aware of at least one.

**Mr DAVID SHOEBRIDGE:** Could you provide details to the Committee of the councils in relation to which the 451 complaints were made and, to the extent possible, provide details of the complaints that have been made? I can only fairly ask you to take that on notice.

**Mr WOODWARD:** I will have to check because there might be some privacy issues with that.

**Mr DAVID SHOEBRIDGE:** You had better hurry up and do it. Minister, you have said repeatedly in relation to the setting of the time for the Newcastle by-election, "Don't worry, it is to be determined by the Electoral Commissioner." I accept fully that it is not your job to set the date for the by-election, but I think what troubles many people is that it may not be the Electoral Commissioner setting the date but the general manager who sets the date under the Local Government Act. Given the general manager was appointed by a council led by the now disgraced lord mayor, what will you be doing to ensure that there will not be some politicisation of the setting of the date if it is done by the general manager?

**Mr PAUL TOOLE:** If that is the decision to be made I hope that the interests of the Newcastle community are being put forward when considering the number of by-elections that will be taking place over the coming months. I would hope that it is taken into consideration to ensure that inconvenience is not being given to the Newcastle community in going back to those elections.

**Mr DAVID SHOEBRIDGE:** Prior to my asking this question, did you know that the general manager rather than the Electoral Commissioner would set the date if the council determined to run its own election?

**Mr PAUL TOOLE:** We do know that there are guidelines in relation to councils—

**Mr DAVID SHOEBRIDGE:** This is a statutory provision, not a guideline.