



The Hon Paul Toole MP
Minister for Local Government

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Ms Catherine Norman
Honorary Secretary
Tomaree Ratepayers and Residents
Association Inc.
PO Box 290
NELSON BAY NSW 2315

17 DEC 2015

Dear Ms Norman

Thank you for your letter of 12 October 2015 regarding the performance of Port Stephens Council and requesting an investigation.

I appreciate the reasons that prompted you to write to me as Minister for Local Government and have noted your concerns. Please be assured that the Government expects all councillors to act in the interest of residents and the community at all times.

While I have various discretionary powers under the *Local Government Act 1993* (the Act) to intervene in a council's operations, the exercise of these powers is only made where there is a serious breakdown in council operations, or major flaws in key council processes are evident. Consideration must be given to the council's autonomy, the public interest and whether intervention is warranted having regard to the overall operations of local government and to the weight of available evidence.

The dismissal of a council and the appointment of an administrator can only occur following a public inquiry. While I have the power to call such an inquiry, this is a power of last resort.

I also have powers under the Act to suspend a council for a period of time where this is considered necessary to enable prompt action to: correct a problem; provide a 'time-out' to build or restore relationships; allow effective business to resume; and/or remedy a failure by a council to do something required of it. Again, the exercise of this power is not something lightly considered.

I note that your concerns relate largely to the conduct of the Mayor, Clr MacKenzie. You may be aware that Council's code of conduct is the key instrument that regulates the conduct of staff and councillors. All councils are required to adopt a code of conduct that meets at least the minimum standards set out in the Model Code of Conduct for Local Councils in NSW prescribed by the Act.

All council officials (councillors, staff and delegates) must comply with the code of conduct. It guides them on matters such as:

- the need to act honestly and with care and diligence
- dealing with situations involving conflicts of interest or improper use of position
- acting to increase public confidence in local government.

Council, in the first instance, is primarily responsible for deciding whether the actions of its members and staff constitute a breach of the standards of behaviour set out in the code of conduct – as well as deciding what should happen if these standards are breached. This approach is consistent with the objectives of the Act, which allows councils a significant degree of autonomy in their day-to-day activities. This autonomy is balanced by the need for councils to be accountable and responsible to their communities for the decisions they make.

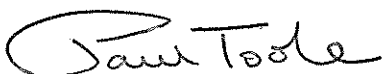
In this regard you may wish to consider raising your concerns about the conduct of the Mayor directly with the General Manager, Mr Wayne Wallis, and request that he examine the matter.

As your concerns also appear to relate to possible corrupt conduct, I would encourage you to give any evidence you may have directly to the Commissioner of the Independent Commission Against Corruption (ICAC) as it is the appropriate authority to investigate corruption allegations. You can contact ICAC at:

Independent Commission Against Corruption
GPO Box 500
SYDNEY NSW 2001
Tel: 02 8281 5999

Thank you again for your letter. I hope this clarifies my position.

Yours sincerely

A handwritten signature in black ink that reads "Paul Toole". The signature is written in a cursive, flowing style.

Paul Toole MP
Minister