

Supplementary Submission to

CENTRAL COAST COUNCIL PUBLIC INQUIRY

Author: Ms. Jane Smith

Position: Councillor (currently suspended)
Central Coast Council

Date: 28 September 2021

1 Purpose

The purpose of this Supplementary Submission is to address the following two matters:

- Recruitment of CEO, Mr. Gary Murphy
- Management of the CEO

1.1 Recruitment of the CEO

Mr. Brian Bell commenced as the Interim CEO at Central Coast Council on 20 September 2017. In December 2017, Mr. Bell advised Council that we should begin the process of recruitment of a permanent CEO. In late December 2017, Mr. Bell also advised that he had some serious health issues and would be resigning from Council with his resignation taking effect on 26 January 2018. Council appointed Mr. Brian Glendenning, an existing Senior Staff member, as the Acting CEO for the period between Mr. Bell's tenure and the appointment of a permanent CEO.

As Mayor, I had a role in facilitating and overseeing the recruitment process for the CEO, however, it is the governing body of Council (15 Councillors) that makes the appointment. I was very mindful of the significance of this appointment for Central Coast Council. The process of recruitment of the new CEO was greatly assisted by Council's Executive Manager People and Culture, Ms. Kellie Reeves.

I was also very mindful of the potential undermining and politicisation of the process - and the potential for undermining a new CEO if there was not a strong consensus around the successful applicant. There had been a degree of controversy, instability and politicisation in the former Wyong Council (prior to the amalgamation) with attempts to remove the former CEO, Mr. Rob Noble.

Table: Outline of the process of recruitment of CEO, Mr. Gary Murphy.

18 Dec 2017	Ordinary Council Meeting – 18 Dec 2017 Mr. Bell as Interim CEO submitted an item to Council on 18 December 2017 (Item 4.15) to formally commence the process of recruitment of a permanent General Manager. Council resolved to begin the process by engaging a recruitment agency.
29 Jan 2018	Extraordinary Council meeting – 29 Jan 2018 Expressions of Interest were invited from recruitment agencies and 3 were invited to present to the full Council at an Extraordinary Meeting of Council held on 29 January 2018. Council resolved to appoint Davidson as the recruitment agency and also appointed the selection panel. This was resolved unanimously to be: <ul style="list-style-type: none">• Mayor (myself) - Independent• Deputy Mayor Chris Holstein – Independent• Clr Chris Burke – Liberal• Clr Jillian Hogan – Labor
	Davidson oversaw the advertising of the position. There were over 100 applications for the position. Davidson completed an initial review of applications and reduced this to a shortlist.

22 Mar 2018	On 22 March 2018, all Councillors were advised by staff assisting the process that the short listed candidates resumes and details were available (on a secure folder) for Councillors to access.
22 Mar 2018	The Selection Panel reviewed material for the shortlisted candidates – this included psychometric testing, CVs, assessment by Davidson and videos that the candidates submitted. The Selection Panel selected 5 applicants to be interviewed. This included an existing Senior staff member of Council who had applied for the position.
26 Mar 2018	Selection Panel met to discuss process and review interview questions.
28 Mar 2018	<ul style="list-style-type: none"> On, 28 March 2018, the selection panel interviewed the 5 candidates. After each interview and at the end of all interviews, the panel discussed the merits of each candidate for the position. All members of the panel identified Mr. Murphy as the stand out candidate with a significant separation between him and the other candidates. The panel was proposing that Mr. Murphy be invited to present to the full Council however, if Councillors wanted subsequent presentations from other applicants then that would be facilitated. <p>It should be noted that the recruitment process outlined in the “Guidelines for the Appointment & Oversight of General Managers issued by the Department of Local Government July 2011” indicates that the recommended process involves the selection panel recommending the most meritorious applicant.</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>4. Selection Panel Report</p> <p>The selection panel is responsible for preparing a report to the council's governing body that:</p> <ul style="list-style-type: none"> • outlines the selection process • recommends the most meritorious applicant with reasons • recommends an eligibility list if appropriate • recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants. <p>This report should be confidential and reported to a closed meeting of council.</p> <p>The council's governing body must by resolution approve the position of the general manager being offered to the successful candidate before that position is actually offered to that candidate.</p> </div>
29 Mar 2018	<p>In an email to all Councillors on 29 March 2018, I provided a brief update on the process:</p> <p><i>Dear Councillors,</i></p> <p><i>I wanted to give you an update on the Recruitment process thus far.</i></p> <p><i>Yesterday, the interview panel interviewed 5 candidates for the position. As you would be aware, the interview panel consists of myself, Deputy Mayor Chris Holstein, Cllr Jillian Hogan and Cllr Chris Burke.</i></p> <p><i>From the process, there was a clear front runner, which all the panel agreed upon. We believe that there is then some separation between that candidate and the next couple of applicants.</i></p>

	<p><i>We would like to call you all together next Wednesday, 4 April, 2018 from 3-5 pm to provide feedback to you from the interviews and identify which candidate(s) you might wish to then invite to provide a presentation to the full Council. I expect the location for the meeting next Wednesday will be Wyong Council – Committee Room, however, we will need to confirm this with you.</i></p> <p><i>This slightly alters the timetable of the recruitment process. You will already have next Wed, 4 April in your calendar from 10am-5pm – so this would change to a meeting from 3-5pm.</i></p> <p><i><u>We would then need to schedule the presentations for the following week.</u></i> <i>I will ask staff to arrange this and send meeting invitations to you.</i></p> <p><i>Please feel free to contact me if you have any questions or concerns.</i></p> <p><i>I hope that you all have an enjoyable Easter weekend.</i></p> <p><i>Regards</i></p>
4 Apr 2018	<p>On 4 April 2018, the meeting was held with Councillors. My recollection is that not all Councillors could attend. Although I don't recall the detailed discussion, I do have a recollection that the individual members of the Selection Panel provided their reflections and comments on the process, consistently advising that all members of the panel had identified Mr. Murphy as the preferred candidate.</p> <p>There was some exchange of emails following the meeting on 4 April with some Councillors suggesting that they should interview more candidates and other Councillors restating their confidence in the process of having 1 candidate present to the Council.</p> <p>In either case, it was made clear that Councillors could nominate to request further presentations from other candidates if they wished.</p>
11 Apr 2018	<p>On Wednesday 11 April 2018, Mr. Murphy provided a presentation and was questioned by Councillors. There were 13 Councillors in attendance (Clr Marquart and Clr Vincent were not present).</p> <p>After Mr. Murphy had left there was discussion amongst the Councillors. There was a strong consensus of support for Mr. Murphy.</p> <p>It should also be noted that all Councillors were obviously familiar with the existing Senior Staff member that had applied. Many Councillors acknowledged the skills and talents that the Senior Staff member brought to the organisation and expressed concerns about the fallout of an unsuccessful application. I can recall a general conversation with Clr McLachlan about options such as Deputy GMs for large Councils such as this.</p> <p>The option calling for further presentations from other candidates was raised – however, the consensus was that Councillors did not feel that this was necessary.</p> <p>My recollection is that I went around the room asking each Councillor their view. The only Councillor that expressed any initial hesitation was Clr Gale, and shortly thereafter in the meeting she confirmed that she supported Mr. Murphy as the candidate.</p>
21 April 2018	Email from Mayor to selection panel confirming the draft Selection Panel Report

23 April 2018	<p>Ordinary Council meeting – Item 2.1 Mayoral Minute – Appointment of the Chief Executive Officer</p> <p>Mayoral Minute to Council, considered in a confidential session, to authorise the Mayor to offer the preferred applicant the position.</p> <p>Resolved unanimously to offer the position to the preferred candidate (14 out of 15 Councillors present).</p>
3 May 2018	<p>Selection panel meeting to consider the background checks for the preferred candidate for the CEO position, Mr Murphy.</p> <p>It was determined by the panel that all checks were satisfactory and that the Mayor should proceed to make an offer to Mr Murphy, in alignment with the Council resolution and the confidential Selection Panel Report of the 23 April 2018 meeting.</p>
4 May 2018	<p>Mayor phoned Mr. Murphy to offer the position and discuss terms.</p> <p>Mayor sent email to Mr. Murphy with formal offer of the position.</p>
4 May 2018	<p>Mr. Murphy replied to email accepting the offer.</p>

From that point there were further formal processes, announcements, media and Mr. Murphy attended the Council on 23 May 2018 to meet key staff and discuss relevant matters.

Mr. Murphy commenced with Council on 2 July 2018.

1.2 Management of the CEO

1.2.1 In my role as Mayor:

Under the Local Government Act 1993, the role of the Mayor includes:

226 Role of mayor

The role of the mayor is as follows—

....

(j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,

(k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,

.....

(n) in consultation with the councillors, to lead performance appraisals of the general manager,

(o) to exercise any other functions of the council that the council determines

The “Guidelines for the Appointment and Oversight of General Managers” issued by the Department of Local Government July 2011 (the “Guidelines”) also outlines the role of the Mayor in day to day oversight and liaison with the CEO and the requirements in terms of Performance Management.

In terms of ongoing oversight and liaison I note the following regular and ongoing interactions:

- Weekly meeting - Mayor and CEO.
- Weekly meeting – Mayor and ELT (Executive Leadership Team) with the CEO attending.
- Other meetings arranged with the CEO as required for particular issues
- Often the Mayor and CEO would both be present at meetings, committees or events
- Councillor Briefings, Councillor workshops and Council meetings

During my period as Mayor, I would describe the Mayor | CEO relationship as professional and respectful. My observation was that Mr. Murphy was well regarded by staff, external stakeholders and Councillors. It was also my view that he recognised some of the significant challenges within the organisation and was strategic in how he approached taking the organisation forward. This included working to build leadership and capability within the organisation.

In terms of Performance Management, I note the following from the Guidelines:

E. PERFORMANCE MANAGEMENT

1. General manager performance management framework

The general manager is made accountable to their council principally through their contract of employment.

The role of the governing body is to oversee the general manager's performance in accordance with the Standard Contract.

The performance of the general manager must be reviewed at least annually against the agreed performance criteria for the position. Council may also choose to undertake more frequent interim reviews of the general manager's performance.

The agreed performance criteria are set out in an agreement that is signed within three months of the commencement of the contract. Development of the performance agreement is discussed below.

Mr. Murphy commenced his position in July 2018. The processes of the Performance Review was assisted by the Executive Manager People and Culture.

I note the following points:

- The Performance Review process, including the Annual Performance Agreement, is an opportunity to review progress, discuss areas of strength and areas that needed greater improvement.
- Councils are required to review the performance of the CEO at least annually. We also undertook an interim review at 6 months.
- Council engaged an external Independent facilitator to assist with the Performance Review process as is common practice
- All Councillors have the opportunity to engage in the performance review process
- The timing of Mr. Murphy's Performance Reviews proved to be problematic in that the 12 month period of employment concluded at the end of June each year. This meant that important information such as Annual Reports and Financial information was not available at the time of the review. My recollection is that we had noted this and were considering changing the timing of the performance review – however, I can't recall a specific date or meeting where this discussion occurred.

- In 2019/2020 the performance review would clash with an expected Local Government election. As noted in my Final Submission, there was consideration about whether the Performance Review should be undertaken by a newly elected Council or the existing Council. It was agreed that it should be the current Council, however, this influenced the KPIs that could be measured at that time. (Ultimately, the Council elections were postponed).

1.2.2 In my role as Councillor / Deputy Mayor

Councillors do not have a role in the day to day oversight of the CEO as an employee. The opportunity to reflect on performance, provide feedback and prioritise focus areas is through the Performance Review process.

It should also be noted that the governing body of Council only employs one person, that being the CEO, and has no role in managing performance of other staff. For that reason, any Councillor dissatisfaction with performance of the organisation in other areas could only be reflected and prioritised through the CEO's Performance Review.

For further commentary about the CEO Performance Review, including responses to the Administrator's (Mr. Persson) comments, I refer you to Section 5.4.4 of my Final Submission.