12.3 REVIEW OF ORGANISATIONAL STRUCTURE AND DESIGNATION OF SENIOR EMPLOYEES POLICY - PROPOSED REPEAL

Attachments:
1. **Organisational Structure and Designation of "Senior Employees"**
2. **Assessment of the Organisational Structure and Designation of "Senior Employees" Policy**

RECOMMENDATION:

That Council REPEAL Organisational Structure and Designation of "Senior Employees" Policy at Attachment 1.

PURPOSE OF REPORT:

To seek Council's approval to repeal the Organisational Structure and Designation of "Senior Employees" Policy (Policy) at **Attachment 1.**

DELEGATION:

Section 2.7 of the *Local Government Act 1995* (Act) sets out the role of Council as being to 'determine the local government's policies'. There is no delegation to Administration to make, review or repeal policies.

BACKGROUND:

Council adopted the Policy in 2010 to support the designation of "Senior Employees" under section 5.37 of the Act and to document the City's organisational structure. The Policy establishes a framework for identifying senior employees and outlines parts of the City's executive structure.

DETAILS

Administration reviewed the Policy as part of the City's scheduled policy review process. The review considered the Policy's relevance, legislative basis, community need, alignment with current practice and consistency with contemporary governance standards, industry guidance and the City's strategic objectives.

This assessment determines whether the policy continues to meet the criteria for a documented policy position or whether it should be amended, consolidated, or repealed.

The elements set out in clause 1.3 of the Corporate Document Development Policy have been considered as set out below.

Requirement for a documented City position (including community need or legislative requirement):

Section 5.37 of the Act allows, but does not require, a local government to designate employees as senior employees.

There is no legislative requirement for the City to adopt or maintain a policy relating to the designation of senior employees or to document its organisational structure within a Council policy.

Administration is of the view that a documented City position is no longer required, as:

- the designation of senior employees is discretionary under the Act;
- the CEO is responsible for managing employees and determining the organisational structure under section 5.41 of the Act; and
- the Policy duplicates operational matters that are more appropriately managed administratively.

A full assessment of the Policy, including a review of each provision and the impact of repeal, has been included at **Attachment 2**.

Examples of current / best practice:

A review of 12 metropolitan local governments indicates that most do not designate senior employees or maintain a standalone policy on organisational structure. Organisational structures are usually published on local government websites rather than included in Council policy.

CONSULTATION/ADVERTISING:

Repealing this policy does not require public notice.

LEGAL/POLICY:

Section 2.7(2)(b) of the Act provides Council with the power to determine policies.

Section 5.41(d) of the Act sets out the role of the CEO *as being responsible for the employment, management, supervision, direction and dismissal of other employees.*

The City's Corporate Document Development Policy requires Council approval to repeal a policy.

RISK MANAGEMENT IMPLICATIONS

Low: Repealing the Policy poses a low risk to Council. The Act does not require the City to designate senior employees, and Administration recommends that the City discontinue this practice. The CEO will continue to manage all staffing matters, other than those relating to the CEO, in accordance with the Act.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's *Strategic Community Plan 2022-2032*:

Innovative and Accountable

Our decision-making process is consistent and transparent, and decisions are aligned to our strategic direction.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The proposed repeal of the Policy reflects contemporary governance practice and recent legislative reforms, which reinforce a clear distinction between Council's governance role and the CEO's administrative role.

Section 5.41 of the Act makes the CEO the single administrative authority responsible for managing employees and determining the organisational structure. Council provides strategic direction, oversight and accountability through the CEO. A Council policy that prescribes or implies involvement in organisational design or workforce matters is inconsistent with this framework.

The Policy duplicates matters addressed by legislation and administrative processes, including the discretionary designation of senior employees under section 5.37 of the Act.

Repeal will improve role clarity, reduce duplication, and align the City's policy framework with contemporary metropolitan practice, where most local governments no longer maintain standalone policies of this nature.

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Responsible directorate	Office of the CEO
Responsible team	Office of the CEO
Responsible officer	Chief Executive Officer
Affected teams	All
Legislation / local law requirements	*Local government act 1995* sections 5.2, 5.37(1), 5.37(2), 5.38 and 5.39(1a)
Relevant delegations	N/A
Related policy procedures and documents	N/A

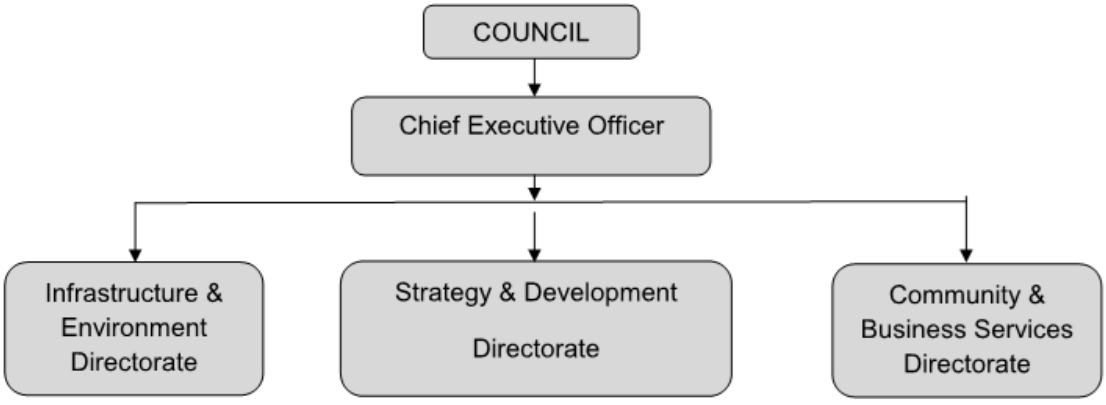
PURPOSE

To provide guidance to the Council and the Chief Executive Officer (CEO) concerning the Organisational Structure for the City's administration, including the management of functional responsibilities and the allocation and management resources within the structure and to prescribe the positions to be classified as a "Senior Employee".

POLICY

1. Determination of Organisational Structure

In accordance with the *Local Government Act 1995* Section 5.2, Council determines that the organisational structure of the City of Vincent shall be:



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1.1 Determination of Organisational Sub-Structure

In order to ensure the efficient, effective and orderly administration of the City, the CEO shall determine:

(a) the operational responsibilities of each of the Directorates and the subsequent sub-structure sections within the respective Directorates to fulfil these responsibilities; and

(b) the sub-structure of each Section including the number of full-time equivalent positions required to ensure the efficient and effective delivery of operational outcomes.

1.2 Council's Satisfaction with Organisational Structure

If the Council is not satisfied that an appropriate structure exists, the Council shall, by resolution, request the CEO to review the structure.

2. Senior Employees

(a) The positions of "Executive Director" are determined to be 'Senior Employee' for the purposes of the *Local Government Act 1995* Section 5.37(1).

(b) Appointment of a person to a Senior Employee position on a temporary or acting basis is in accordance with *Local Government Act 1995* Section 5.39(1a).

(c) The CEO is responsible for fulfilling the City's obligations in the management of Senior Employees as follows:

(i) provide a recommendation to the Council to employ, dismiss, or create a new Senior Employee position [refer *Local Government Act 1995* Section 5.37(2)];

(ii) review the performance of each senior employee on an annual basis [refer *Local Government Act Section* 5.38]; and

(iii) make determinations to exercise contract renewal options or re-negotiate existing employment contracts in accordance with the *Local Government Act 1995* Section 5.37.

3. Senior Employees

In determining the Organisational Sub-structure in accordance with Clause 1.1 above, the CEO has authority (subject to sufficient funds being provided in the City's Budget) to:

(a) create new positions, other than Senior Employees [in accordance with the *Local Government Act 1995* Section 5.37(2)];

(b) determine the functions of new and existing positions;

(c) determine the remuneration of new and existing positions;

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(d) undertake the annual performance appraisals of all employees in accordance with the *Local Government Act 1995* Section 5.38; and

(e) terminate existing positions, including determinations on employee redundancy if required.

Include terms continually referred to in the policy. Industrial terminology or jargon should also be defined to provide a clear and consistent meaning for the reader.

OFFICE USE ONLY	
INITIAL COUNCIL ADOPTION	Date: 09/02/2010, Ref# D18/115781
REVIEWED / AMENDED	Date: 20/08/2019, Ref#: D19/123351
NEXT REVIEW DATE	Date: 05/03/2023

Assessment of Organisational Structure and Designation of Senior Employees Policy

Impact of Policy Repeal: Repealing this policy aligns with contemporary governance practice and the direction of local government reform, which has progressively strengthened the distinction between the Council's governance role and the CEO's administrative responsibility.

Amendments to the *Local Government Act 1995* (Act) in 2024, including section 5.41, reinforce the CEO as the single administrative authority and position Council to govern through strategy, oversight and CEO accountability, rather than involvement in operational or workforce matters. These reforms reflect a deliberate alignment with long-established public sector governance models across Australian jurisdictions, where legislation protects the CEO's responsibility for organisational structure and workforce management.

Retaining legacy policies that prescribe organisational structure or embed discretionary employment categories is inconsistent with this model and risks diluting clear lines of accountability.

Repeal supports a contemporary, principles-based governance approach that is streamlined, legislatively aligned and focused on transparency, role clarity and effective oversight through the CEO.

Note: The policy was initially adopted on 9 February 2010 and amended on 20 August 2019.

No.	Current Clause	Impact of Policy Revocation
Purpose		Revoking the policy removes a document that combines two distinct matters that are no longer appropriately addressed through a Council policy: organisational structure and senior employee designation. The Act does not require a Council policy for either matter. Organisational structure is an operational matter managed under the CEO's responsibility for administration and operations (s 5.41), while senior employee designation is discretionary and not required for legislative compliance (s 5.37). Revocation would improve role clarity by removing a legacy policy that extends Council policy into operational matters that are the responsibility of the CEO, and align Vincent with contemporary metropolitan practice, where most comparable councils do not maintain a standalone policy of this kind. In the metropolitan sample reviewed, only two councils (City of Swan and Town of Cambridge) were identified as maintaining a standalone organisational structure/designated senior employees' policy.
Clause 1	Determination of Organisational Structure	Revoking this clause would remove the proposition that Council "determines" the organisational structure. This wording reflects an outdated interpretation of section 5.2 and is inconsistent with section 5.41, which assigns responsibility for administration and operations to the CEO.

		Section 5.2 of the Act requires Council to ensure an appropriate structure for administering local government, while section 5.41 assigns responsibility for managing administration and operations to the CEO. In practice: • Council endorses the high-level structure through the Workforce Plan, Budget, and endorses the CEO's recommendations for the high-level structure; and • The CEO is responsible for establishing an organisational structure for administering the City, determining the internal sub-structure, and managing employees. Revocation would therefore align the City's framework with the Act by recognising that directorate design, reporting lines and internal structure are administrative matters for the CEO. Maintaining the organisational structure on the City's website, rather than in policy, ensures transparency, accessibility and accuracy. The visual structure of the current policy is already out of date, including the omission of major project delivery functions, which demonstrates the limitations of embedding operational information in a Council document. Publishing the structure on the website enables timely updates and provides a single, reliable source of current information, whereas requiring formal amendment increases the likelihood of discrepancies and reduced transparency.
Subclause 1.1	Determination of Organisational Sub-Structure	Revoking this subclause would have no material impact, as the CEO already holds statutory authority under section 5.41 to determine internal organisational arrangements, allocate resources and define functions. This clause duplicates powers conferred directly by the Act and does not create any additional authority or constraint. Retaining the clause risks implying that the CEO's authority to determine organisational arrangements derives from Council policy rather than from statute. Its removal reinforces that these matters are governed through the CEO's statutory functions and implemented through administrative processes, workforce planning and budget decisions.
Subclause 1.2	Council's Satisfaction with Organisational Structure	Revoking this subclause would not remove Council's oversight role. Council would still be able to request information, seek assurance, or, by resolution, require the CEO to review the structure as part of its governance functions under section 5.2.

		The clause does not create a power that the Council would otherwise lack and is therefore unnecessary. Retaining the clause risks suggesting that Council requires a policy mechanism to exercise oversight, when that authority already exists under the Act.
Clause 2	Senior Employees	This is the most significant effect of the repeal and the strongest reason for it. Designation is discretionary and not required by the Act. The Act already establishes a comprehensive governance and accountability framework without the need to designate senior employees. Section 5.36 requires Council to employ a CEO, establishing the CEO as a distinct statutory office holder accountable to Council. Section 5.41 assigns responsibility for managing administration and employees to the CEO. Section 5.2 defines Council's governance role, section 5.38 provides for CEO performance review, and section 5.40 limits Council interference in administration. Read together, these provisions establish a clear legislative model: Council governs through the CEO, and the CEO administers the organisation. Council's oversight of the organisation is exercised through the CEO's employment, performance and reporting, not through direct involvement in subordinate employment decisions. Accordingly, there is no legislative requirement to designate the CEO or any employee as a senior employee. The CEO's authority and accountability arise directly from sections 5.36 and 5.41 and are not dependent on designation under section 5.37. Designation does not strengthen governance or oversight. Instead, it introduces an additional statutory employment category that extends the Council's scope into operational employment matters and risks blurring the intended separation between governance and administration. The designation of senior employees also triggers additional legal consequences, including contract requirements under section 5.39 and potential caretaker implications under section 3.73. This approach to no longer designating senior employees is consistent with WALGA's advocacy that Council involvement in employment matters should generally be limited to the CEO (2.5.26 Senior Employees, WALGA advocacy positions).
Clause 3	Senior Employees	Revoking this clause would remove policy provisions that combine ordinary workforce-management powers with arrangements for senior employees.

		The matters in this clause, including creating positions, determining functions and remuneration, managing performance and redundancy, are operational responsibilities of the CEO under section 5.41. They do not require restatement in Council policy and are exercised through administrative processes under employment instruments. This clause restates the CEO's authority to manage employees, which is already conferred by section 5.41 of the Act and does not require inclusion in a Council policy. Workforce management functions, including position creation, role definition, remuneration, performance review, and redundancy, are governed by the City's budget, industrial agreements, and internal Human Resources policies and procedures. Matters relating to the Council's review of the CEO's performance are addressed separately in the CEO Annual Performance Review Policy. Retaining this clause risks creating confusion about whether workforce management is a governance or an administrative function.

Metropolitan councils searched for review:

- City of Bayswater
- Town of Bassendean
- Town of Cambridge *
- City of Joondalup
- City of Perth *
- City of Rockingham
- City of South Perth *
- City of Stirling
- City of Subiaco *
- City of Swan
- Town of Vic Park *
- City of Wanneroo

A City of Karratha briefing was also reviewed.

*Inner City