

POLICY:-	
Policy Title:	Private Use of Council Motor Vehicle
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Date Policy was adopted by Council initially:	27 July 2006
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Resolution Number:	162/20
Next Policy Review Date:	2023

PROCEDURES/GUIDELINES:-	
Date procedure/guideline was developed:	N/A
Procedure/guideline reference number:	N/A

RESPONSIBILITY:-	
Draft Policy developed by:	Director of Finance and Administration
Committee/s (if any) consulted in the development of this Policy:	Consultative Committee
Responsibility for implementation:	General Manager
Responsibility for review of Policy:	Director of Infrastructure

OBJECTIVE

Council will endeavour to achieve the following outcomes:-

1. Manage the motor vehicle leaseback fleet in an equitable and cost effective manner, providing best value for money;
2. Minimising the environmental impact of the motor vehicle leaseback fleet;
3. Provide employee benefits to assist in the task of attracting and retaining talent; and
4. Ensure the motor vehicle lease fees are set and reviewed annually so as to maintain the leaseback fee at a level that minimises Council's Fringe Benefits Tax (FBT) obligations and reflects increases in the vehicles maintenance and running costs.

POLICY STATEMENT

This policy sets out the terms and conditions of an agreement between Council and eligible employees whereby the Council agrees to allow private use of a motor vehicle on the terms and conditions contained in the motor vehicle leaseback agreement and the lessee accepts those terms and conditions in the full understanding of and agreement to, those terms and conditions.

The leaseback fee is not based on a full cost recovery basis for Council.

The "Staff Motor Vehicle Lease Agreement" is an Appendix to this policy.

THE LOCAL GOVERNMENT (STATE) AWARD

The Local Government (State) Award governs the arrangements for the leaseback of motor vehicles to Council employees.

Leaseback motor vehicles may be provided to employees as a condition of employment (e.g. as an incentive for accepting employment) or as a discretionary benefit that is not a condition of employment.

A leaseback motor vehicle will be considered to be a condition of employment for an employee unless it was clearly identified that it was not being provided on such a basis at the time that it was provided.

The Local Government (State) Award provides that where the leaseback motor vehicle agreement was entered into prior to 1 November 2010, the Council shall give a minimum of twelve (12) months notice to terminate the agreement.

Proposals to vary leaseback motor vehicle arrangements, including the formula for calculating the leaseback fee, must be referred to Council's Consultative Committee.

GUIDELINES

That the following act as a guideline for Council's Motor Vehicle Leaseback Scheme:-

1. The leaseback fee will be published annually in Council's Schedule of Fees and Charges and shall be adopted for all employees having full private usage of the motor vehicle. All new employees who are granted the entitlement to full private usage will pay the leaseback fee upon commencement.
2. The leaseback fee is subject to review annually in June and the new fee will commence in the first full pay period after 1 July. The leaseback fee will include any CPI adjustments, increased plant running costs and increased Fringe Benefits Tax costs over the previous twelve month period.
3. The weekly leaseback charge shall be deducted from the employee's net salary each fortnight. Signing of the agreement shall be taken to authorise Council to deduct the leaseback payment from the employee's wages. The amount will be deducted as a post tax rate from the employee's fortnightly earnings.
4. Use of Council's motor vehicle for private purposes must not result in any significant restriction of the business availability of that motor vehicle.
5. The leaseback vehicle is to be driven to work every day except for periods of sick, annual and/or other approved leave. Motor vehicles assigned under a leaseback arrangement will not be available to other staff without the lessee's prior knowledge or consent. Requests to use the vehicle for business purposes should not be unreasonably denied by the lessee.
6. Where the vehicle is used by another member of staff, the lessee will have the right to expect that reasonable care will be taken of the vehicle and that the interior and exterior will be kept in a comparable condition as it was before that use.
7. Smoking is not permitted in a Council vehicle at any time.
8. Council will purchase motor vehicles based on the sale of vehicles within 100,000 kilometre range and/or up to three years from the purchase date. This may be varied by the General Manager based upon budget constraints. The motor vehicle schedule will be subject to a review each year.
9. That the leaseback scheme be reviewed annually by the General Manager and reported to the Council budget workshop as part of preparation of Council's Operational Plan.

10. It is a condition of the leaseback scheme that an annual Fringe Benefits Tax (FBT) Return be completed by each lessee in the prescribed format for each separate motor vehicle allocated to the lessee. Receipts for the purchase of fuel, oils etc for private use are to be attached to the declaration.
11. The lessee is required to complete a log book of kilometres travelled and the allocation of the same to business use and private use. The log book information will be used by Council to record internal plant hire income. A log book declaration for a 12 week period will be used in calculating the annual FBT Return.
12. The lessee is to ensure that the motor vehicle is at work and available for Council's general use as a pool car during the Lessee's normal working hours.
13. The lessee must obtain the consent of the General Manager in order to retain possession of the motor vehicle whilst on leave for a period which exceeds four weeks.
14. The General Manager shall be delegated authority to set a lease fee for any motor vehicles having to/from home use only, to cover any possible Fringe Benefits Tax (FBT) liability.
15. All accident damage is to be reported promptly to the Council Plant Superintendent and arrangements made for quotations for repair and submission of insurance claims.
16. The lessee has the responsibility to present the motor vehicle for regular servicing in compliance with warranty requirements.
17. Standard accessories will include floor mats, seat covers, bonnet and headlight protectors, mud flaps, cruise control and a choice between manual and automatic transmission.
18. Motor vehicle selection shall be based on suitability, purchase price, fuel efficiency, resale value and running costs – note, only motor vehicles available under the NSW Government Procurement Policy are to be purchased by Council.
19. The General Manager determines the type of motor vehicle appropriate to the status and work needs of the employee. The type of motor vehicle shall be determined suitable based on the primary purpose of Council service delivery. The vehicle purchased is to have regard to the lowest "whole of life" cost of ownership and be generally restricted to the most common models.
20. There is a preference for four cylinder models, where appropriate, in order to reduce fuel costs and carbon footprint where it is considered that a four cylinder motor vehicle can adequately perform the work required.

21. Employees applying for internal position vacancies should note that their current position's entitlement to a motor vehicle is not transferable to another position. This is in accordance with the Local Government (State) Award.
22. Private leaseback of a motor vehicle shall not be available to any employees that are not employed on a full time permanent basis.

RELEVANT LEGISLATION

- Local Government Act 1993 (as amended);
- Local Government (General) Regulations 2005;
- Local Government (State) Award 2020;
- Income Tax Assessment Act 1997;
- Fringe Benefits Tax Assessment Act 1986;
- A New Tax System (Goods and Services Tax) Act 1999;
- Road Transport (Safety and Traffic Management) Act 1999;
- Motor Traffic Act 1909;
- State Records Act 1998;
- Privacy and Personal Information Protection Act 1998;
- Independent Commission against Corruption Act 1988;
- Government Information (Public Access) Act 2009;
- Council's Integrated Plans; including Community Strategic Plan, Resourcing Strategy, Delivery Program and Operational Plan;
- Workers Compensation Act 1987;
- Work Health and Safety Act 2011;
- Code of Conduct for Councillors, staff and delegates of Council;
- Recruitment and Selection Policy;
- Salary Sacrificing Policy;
- Plant Replacement Policy;
- Purchasing and Acquisition of Goods Policy and Procedures;
- Complaints Management Policy;
- Grievance Policy;
- Records Management Policy;
- Disciplinary Policy; and
- Any other relevant legislation and guidelines as applicable.

VARIATION

That Council, after consultation with the eligible employees, reserves the right to vary the terms and conditions of this policy and the motor vehicle leaseback agreement.

Agreement B
STAFF - FULL PRIVATE USE

UPPER LACHLAN SHIRE COUNCIL
STAFF MOTOR VEHICLE LEASE AGREEMENT

BETWEEN: UPPER LACHLAN SHIRE COUNCIL ("Council")

AND: of

.....
In the State of New South Wales ("the Lessee")

1. Council to Supply Vehicle

1.1 Council shall supply the Lessee with a mutually satisfactory motor vehicle in accordance with Council's policy entitled "Private Use of Council Motor Vehicle".

2. Term of Lease

2.1 The term of this lease shall begin on and shall remain current while ever the Lessee retains the position held at the time of signing this lease or, if appointed by the General Manager, to an acting position senior to the Lessee's current position.

3. Lease Fee

3.1 During the term of the Lease Council shall deduct the amount of \$112.00 ("the fee") every week from the Lessee's salary.

3.2 The Council shall review the fee annually and to vary it according to movements in the amount payable as Fringe Benefits Tax and plant running expenses and in accordance with Local Government (State) Award conditions. Such variation is to be subject to fourteen days written notice by the General Manager to the Lessee.

3.3 The Lessee shall not be required to pay fees during extended periods in which the Vehicle is unavailable for private use by the Lessee. The General Manager is to approve all temporary lease fee changes.

4. Vehicle to Remain Council's Property

- 4.1 The Vehicle is owned by and shall remain the property of Upper Lachlan Shire Council.

5. Use of Vehicle

- 5.1 Subject to clause 6, the Lessee may retain possession of the Vehicle for private use and for use in connection with Council business.
- 5.2 The lessee must maintain a logbook in the Council approved form and record all business-related travel.

6. Restrictions on Use of Vehicle

- 6.1 The Lessee shall ensure that the Vehicle is at work and available for Council's general use as a pool car during the Lessee's normal working hours. The Lessee shall ensure that the Vehicle is pooled with another Lessee and garaged at the other Lessee's residence for at minimum one night each year – refer to Australian Taxation Office (ATO) Private Ruling Number 84108.
- 6.2 The Lessee must obtain the written consent of the General Manager in order to retain possession of the Vehicle whilst on leave for a period which exceeds four (4) weeks.
- 6.3 Leave for the purposes of Sub clause 6.2 includes Annual, Long Service and Sick Leave. Employees on Leave Without Pay or Workers Compensation shall not be entitled to retention of the vehicle for any period in excess of 5 days.

7. Drivers of Vehicle

- 7.1 The Vehicle may be driven for private use by:
- (a) The Lessee;
 - (b) The Lessee's spouse or partner;
 - (c) A family member who has attained the age of 25 years;
 - (d) A family member whose age is less than 25 years provided that the Lessee is also in the Vehicle;
 - (e) Other licensed drivers provided they have attained the age of 25 years and the Lessee has the prior written approval of the General Manager.
- 7.2 The Vehicle may not be driven by a person who does not hold the relevant drivers licence issued by the Roads and Maritime Services in NSW or its equivalent.
- 7.3 The vehicle must be driven in accordance with this Lease and with all regulations laid down pursuant to the Motor Traffic Act and with any parking ordinances or regulations.

- 7.4 The driver of a vehicle is solely responsible for any parking or traffic infringement notice incurred during either private or council use. However, where the driver cannot be identified, the Lessee shall pay the fine. Adequate records must therefore be kept using the "Council Vehicle Use Log Book" by the Lessee to identify the driver at the time the infringement occurred.

8. Service, Maintenance and Insurance

- 8.1 Council shall be responsible for:

- (a) The regular servicing and maintenance of the Vehicle;
- (b) Registration of the Vehicle;
- (c) Full and comprehensive insurance in respect of the Vehicle and its use; and
- (d) NRMA subscriptions in respect of the Vehicle (when there is no dealer warranty).

9. Provision of Fuel

- 9.1 The employee is responsible for the cost of fuel supplied to the Vehicle outside of the Shire when not on Council business.
- 9.2 The lessee must use the Council allocated Fuel Card, at a nominated fuel supplier, garage or depot for the supply of fuel within the Shire and/or in Goulburn.
- 9.3 The Council allocated Fuel Card shall only be used for the purchase of fuel for Council Vehicles, as well as oil and other transmission fluids if required. No other purchases are permitted on the fuel card. The use of this card for obtaining bonus points (i.e. Fly buys Points) is prohibited.
- 9.4 At the end of each month, the Lessee shall provide Council's Manager of Finance and Administration with receipts for any purchases of fuel for private use and complete FBT form in April each year.
- 9.5 A fuel surcharge will apply in addition to the private use leaseback contribution where a Vehicle's total fuel cost is excessive. In cases where the vehicle total fuel costs are excessive the General Manager will determine the quantum of payment to be made and will advise the lessee in writing.

10. Proper Care of Vehicle

- 10.1 The Lessee must keep the Vehicle in a clean and tidy condition.

10.2 The Lessee is responsible for the proper care of the Vehicle including:

- (a) Regular cleaning of the Vehicle, both inside and outside;
- (b) Regular checking of fuel and oil levels, tyre pressures, battery and radiator in accordance with the manufacturer's recommendations;
- (c) Cleaning shall be carried out immediately after transporting of any animal/s in the vehicle;
- (d) When at the employee's residence, the Vehicle must be parked off-street and under cover where practical;
- (e) No modifications are to be made or equipment added to or removed from the Vehicle without the approval of the Director of Infrastructure.

11. First Aid Kit

11.1 Council shall provide the Lessee with a first aid kit.

11.2 The Lessee shall keep the first aid kit in the Vehicle at all times.

11.3 The Lessee shall, at the Council's expense, restock the first aid kit to replace the items, which have been used or expired.

12. Accident or Breakdown

12.1 If the Vehicle is involved in an accident or breaks down, the driver must utilise either the service of the motor dealer warranty, and/or NRMA, or Council's workshop.

13. Repairs

13.1 If the Vehicle develops a fault or requires repairs, the Lessee shall arrange the required service, maintenance or repairs.

13.2 If the Vehicle requires extensive repairs when remote from Upper Lachlan Council area, the Lessee may arrange to have the repairs carried out but must obtain the consent of the Director of Infrastructure or General Manager.

13.3 If the Vehicle requires immediate repairs due to mechanical failure and is unavailable for use the Lessee may obtain an existing Council fleet vehicle. In extreme cases Council may hire a replacement vehicle with the approval of the Director of Infrastructure. If approval is granted to hire a vehicle, the replacement vehicle hired will be the most economical and/or lowest cost option available to Council.

14. Extras

- 14.1 First time extras shall only be fitted to the Vehicle with the prior consent of the General Manager.
- 14.2 First time extras shall not be fitted to the Vehicle at Council's expense.
- 14.3 If extras are removed, the Vehicle must be left as near as practicable to its original condition and must be to the satisfaction of the Director of Infrastructure.
- 14.4 Previously approved fitted extras shall be fitted to the replacement vehicle at Council's expense.
- 14.5 For Council business trips to or through Sydney or when travelling on other toll roads, a Council E-Tag is available and shall be used by the Lessee in the Vehicle. Any private use of a leaseback Vehicle on toll roads must be paid by the Lessee of the Vehicle.

15. Prohibited Use

- 15.1 The Vehicle may not be used in any car rally or car competition.
- 15.2 Smoking is not permitted under any circumstances in Council Vehicles at any time. This includes the driver and all passengers.
- 15.3 The Vehicle shall not be used for a commercial or business purpose or an activity where the Lessee derives an income which is not related to the Lessee's employment with Council.
- 15.4 The Vehicle may not be used in any manner which might contravene the insurance policy (a copy of which is annexed hereto) or result in voidance of the insurance cover and/or the Vehicle manufacturer's warranty.

16. Insurance Claims

- 16.1 If the Vehicle is involved in an accident, the Lessee shall pay the full amount of any claim rejected by Council's insurers due to a breach of the insurance contract by any action of the driver or passengers of the Vehicle.
- 16.2 Any age excess applicable to a claim shall be paid by the Lessee unless the driver of the Vehicle at the time of the accident was a Council employee.

17. Termination

17.1 Council may terminate this Lease prior to the end of the term set out in clause 2 upon twelve months notice to the Lessee of its intention to do so.

17.2 Council may terminate this Lease immediately upon:

- (a) A breach by the Lessee of a term of this Lease;
- (b) A change of the Lessee's duties which no longer renders necessary the use of the Vehicle;
- (c) The Lessee's appointment to a new position which does not provide for a vehicle to be made available as part of the salary package;
- (d) The Lessee being disqualified from holding a driver's licence;
- (e) Abuse or misuse of the Vehicle by the Lessee in accordance with Clause 15;
- (f) Misuse and/or excessive use of the Council Fuel Card by the Lessee for private purposes.

17.3 The Lessee may terminate this Lease immediately upon giving Council written notice of intention to do so.

18. Surrender of Vehicle and Fuel Card

18.1 The Vehicle and Fuel Card shall be surrendered to Council:

- (a) Upon termination of this Lease; or
- (b) Upon termination of employment; through retirement, resignation or employee redeployment, being the last day on which the Lessee attends work.

UPPER LACHLAN SHIRE COUNCIL

STAFF MOTOR VEHICLE LEASE DECLARATION

I have read and understand the Private Use of Council Motor Vehicle Policy and Staff Motor Vehicle Lease Agreement. I hereby agree to these conditions. I understand and accept the implications of having a motor vehicle and the implications regarding Reportable Fringe Benefits.

Signed in agreement of the terms set out in the Staff Motor Vehicle Lease Agreement offered by the General Manager of Upper Lachlan Shire Council on the:-

..... Day of 2.....

.....
General Manager
UPPER LACHLAN SHIRE COUNCIL

.....
Witness
.....
.....

Signed in agreement of the terms set out above by the Lessee on the:-

..... Day of

.....
LESSEE

.....
Witness
.....