

**POLICY:** MOTOR VEHICLE LEASE

**DATE ADOPTED:** Director Corporate Services & Finance's Report #1  
Policy 5 December 2012  
Council 6 February 2013  
Minute Book No 11477

Director Corporate Services & Finance's Report #1  
Policy 2 February 2011  
Council 16 February 2011  
Minute Book No 11065

**ORIGINAL ADOPTION:** Director Corporate Services & Finance's Report #6  
Council 16 November 2005  
Minute Book No. 9705

**FILE REFERENCE:** 11.00003

**OBJECTIVE** To establish guidelines to allow private use of Council vehicles by employees of Council.

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**1. AIMS**

This policy will set the conditions under which Council vehicles may be made available for private use by employees of council.

**2. OBJECTIVES**

The objectives of this Policy are:

- To establish guidelines for the use of council vehicles for private purposes
- To establish the responsibilities of all parties involved in the private use of council vehicles

**3. ELIGIBILITY**

This policy applies to eligible employees as defined below.

**Category A**

The General Manager and Senior Staff.

**Category B**

Managers who currently have a Holden Berlina or equivalent vehicle.

**Category C**

Managers (defined as Line Managers responsible for a section and reporting directly to a Director) who have a vehicle or staff members who currently have a Holden Acclaim or equivalent vehicle.

#### **Category D**

Staff members whose position requires a vehicle and are eligible to apply for the private use of that vehicle and staff members who are provided a vehicle as part of their employment package.

#### **Category E**

Staff members who currently have partial private use of the vehicle.

#### **Category F**

Staff members whose position requires a vehicle but who are not entitled to any private use of the vehicle.

Any eligible employee under this policy must at all times have an appropriate and current licence for the vehicle they are driving.

#### **Other**

Eligible employees may also fit into two further categories:

- i. where the lease of a motor vehicle is provided as a condition of employment
- ii. where the lease of a motor vehicle is provided as a discretionary benefit.

The Local Government (State) Award 2010 states

#### **15. MOTOR VEHICLE LEASEBACK**

##### **A. GENERAL**

*The parties to this Award recognise that leaseback 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 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.*

*Factors to consider when determining whether a leaseback vehicle is a condition of an employee's employment include:*

- *Whether the vehicle was offered as an incentive to attract and/or retain the employee; and*
- *The period that the employee has had access to a leaseback vehicle.*

#### **4. PRIVATE USE**

- 4.1 "Private Use" shall mean the travelling and conveyance of the Employee or the Employee's spouse, partner, family or friends on activities of that employee outside the Employee's working hours and during periods of leave or authorised absences BUT DOES NOT INCLUDE the loan, rent, hire, sub-lease of that vehicle under any circumstance whatsoever. The Employee shall not use the vehicle outside of the working hours of the Employee other than for the private purposes of the employee as herein defined and permitted.
- 4.2 Provided further that it is permissible for another member of the Employee's family to drive the vehicle, provided the employee is in the vehicle at the time (excepting unforeseen emergency situations) and further, provided that the Employee's spouse or partner has the right to drive the vehicle unaccompanied by the lessee.

- 4.3 Provided further that where a private use journey of more than two hours duration is being undertaken, or a genuine emergency situation exists, a suitably licenced non-family member may drive the vehicle provided the employee is in the vehicle at the same time.
- 4.4 Interstate travel must be approved by the General Manager prior to it being taken. (Travel to the ACT is not considered interstate travel in the context of this policy.)
- 4.5 Eligible employees have the option of leasing a vehicle for private use in accordance with their category under Council's Vehicle Policy and in accordance with the terms and conditions of this policy and the Lease Back Agreement.

Employees in job share/part time positions are not eligible to lease a vehicle for private use. This may be varied in exceptional circumstances but each individual request would be treated on its merit and would be only allowed with the approval of the General Manager.

- 4.6 All infringement notices are the responsibility of the employee to whom the vehicle has been leased/allocated or the driver responsible for the vehicle at the time of the infringement. Failure to pay any infringement notice/s will be considered a breach of this policy. (See Clause 12 -Breaches).
- 4.7 Accessories

The Employee may, with the approval of the General Manager of the Council, fit accessories to the vehicle at his/her own expense, but no reimbursement shall be provided by the Council to the employee for such accessories at any time. Approved accessories shall be provided by Council on replacement vehicles

- 4.8 Vehicle Lease Fee

A lease fee for the use of the vehicle will be paid by way of a weekly salary deduction. The fee will be calculated in accordance with Council's Lease Back Agreement.

- 4.9 Surrender of Vehicle

- 4.9.1 The Employee agrees that in accordance with Council's policy, the vehicle will be traded in and replaced as and when required by the employer. The new vehicle will be one similar to that traded, unless Council's requirements for the vehicle specifically alter or due to altered working conditions of the Employee. (Any such replacement vehicle shall be deemed to be the vehicle covered by any lease agreement.)

- 4.9.2 Vehicles will be replaced in accordance with Council's prevailing policy at the time.

## **5. FRINGE BENEFITS TAX**

- 5.1 In order to satisfy Council's requirements in relation to Fringe Benefits Tax (FBT) on the private use of vehicles it is necessary that each vehicle attain, on an annualised basis, the 25,000 km threshold level for fringe benefits tax calculations.

When a vehicle is nearing replacement it is the employee's responsibility to consult with Council's Taxation Accountant to ascertain the number of km required to reach the annualised taxation threshold of 25,000 km.

If a vehicle is replaced it is the responsibility of the employee to advise the Taxation Accountant and seek advice as to how many km need to be travelled before the end of the FBT year.

Failure to reach the annualised taxation threshold on each vehicle may result in a higher than expected reportable benefit on an employee's group certificate.

- 5.2 The employee agrees to meet the costs of the FBT tax payable by Council, should this be required, for any amount in excess of the 25,000 km threshold level tax calculation.
- 5.3 Should the lease holder pay the lease fee through a salary sacrifice agreement, they are held responsible for ensuring fees are calculated correctly and the payroll officer advised. Any subsequent recalculation to reflect any change, such as change over of vehicle, or change in lease fee, must be done immediately following the change and the payroll officer advised. Any costs relating to FBT tax payable by Council as a result of engaging in a salary sacrifice agreement must be met by the leaseholder.

## **6. AVAILABILITY FOR COUNCIL USE**

- 6.1 The vehicle remains the property of the council and is to be made available by the Employee for use by Council (including other Council employees) during the employee's working hours as provided for in the industrial award covering the Employee or such other time as the Employee shall be rostered for work by the Council. Council's requirements for use of the vehicle by the Employee for Council activities will have priority over the private use of the vehicle, during the time when the employee is rostered to work.
- 6.2 Subject to paragraph 6.1 above, eligible employees may use the vehicle outside of working hours of the Employee (including weekends, rostered absences and periods of leave taken by the employee) for the private purposes of the Employee. Private use for periods in excess of four weeks will be subject to the approval of the General Manager.

## **7. VEHICLE EXPENSES**

- 7.1 Council will provide a fully maintained car and is responsible for all vehicle expenses other than those outlined in Clauses 4.6, 4.7, 5 and 11.
- 7.2 The Employee shall be provided with a Fuel Card for the purchase of petrol and oil only. In unforeseen emergency situations or occasions where the employee is unable to attend a service station which accepts the provided fuel card, if fuel is purchased by the employee, documentary evidence is

required for reimbursement. Reimbursement will be by way of a cheque request.

### 7.3 Cleaning and Security

The Employee shall:

- (a) wash and clean the vehicle at least once per week and shall polish the vehicle at least once each six months; and
- (b) properly secure the vehicle when left overnight and shall house the vehicle in a garage, if garage space is available, at the premises of the Employee and if no such garage space is available, then the Employee shall park the vehicle off the public road and on the private property of the Employee, if possible.

## 8. COUNCIL DIRECTIONS AND RULES

The Employee shall comply with the instructions and rules, including the maintenance of log books, for the general operation of the vehicle from time-to-time given by the General Manager or other Council Officers authorised to give instructions pertaining to the use of the vehicle by the Employee.

## 9. NOTIFICATION OF DEFECTS/DAMAGE

The Employee shall promptly notify Council in writing of any defects or damage to the vehicle. A written memorandum to that effect shall be submitted to the Director Engineering Services for the attention of the Workshop Manager.

## 10. REPAIR AND MAINTENANCE

The Employee shall keep the vehicle in good repair and condition by ensuring that the workshop conducts regular services in accordance with the manufacturer's logbook and any maintenance schedules laid down by Council's Workshop Manager. The Employee shall comply with the guarantee requirements of the manufacturer of the vehicle.

## 11. INSURANCE

- 11.1 The Council shall take out comprehensive insurance cover on the vehicle, covering private use of the vehicle by an employee.
- 11.2 In the event of an accident outside of the working hours of the Employee and whilst the vehicle is being used for private use the Employee shall be required to pay the excess provided in Item 3 of Schedule 1 in the Motor Vehicle Lease Agreement on demand by the Council to the Council provided that should the said excess be recovered by the insurance company and be reimbursed to Council, then the Council shall repay the excess to the Employee. The amount of the excess may be varied by Council from time-to-time, in accordance with changes to Council's insurance policy arrangements with this amount to be notified to the Employee.
- 11.3 If the Employee or any person using the vehicle with his/her permission shall breach any of the conditions of the insurance policy of Council, including consumption of alcohol beyond the prescribed limit, and Council's insurance

company should fail and refuse to meet the claim for the accident, the Employee shall be liable to Council for

- reimbursement of the cost of repair of the vehicle (and any other vehicle for which Council would be liable for repair)
- and for any other damage suffered by Council as a result of the accident not recoverable from the insurance company by virtue of the breach of the condition of the insurance policy.

11.4 Should the vehicle be involved in an accident:

- The driver must not admit liability.
- The driver should stop and lend assistance to injured persons, if possible. Call for an Ambulance and Police, if necessary.
- The driver should, in accordance with the Motor Traffic Act, report the Accident to the Police within 24 hours. This can be done by either presenting at the police station or phoning the Police Assistance Line on 131 444.
- The driver should obtain all particulars. Record the names of all persons involved including that of the Police Officer, position of vehicles involved, names and addresses of individuals involved, witnesses and any action taken.
- The driver should report all accidents to Council's Human Resources Department who will then report the incident to the person within council responsible for organisation of claims and repairs.
- If a member of the public is injured/known to be injured, the driver should advise the General Manager.

## 12. BREACHES

Any breaches of the provisions of this policy may lead to the employee (i) losing access to a vehicle, and/or (ii) facing disciplinary action.

## 13. VARIATION OF VEHICLE LEASE ARRANGEMENTS

Variation of any motor vehicle lease agreement will be in accordance with the Local Government (State) Award 2010 as detailed below:-

### C. VARIATION OF LEASEBACK VEHICLE ARRANGEMENTS

- (iv) *Variations to leaseback arrangements – Proposals to vary leaseback vehicle arrangements, including the formula for calculating the leaseback vehicle fee shall be referred to Council's Consultative Committee in accordance with Clause 28 of this Award.*
- (v) *Variations to leaseback fees – A council shall not increase the leaseback vehicle fee an employee is required to pay in any one year by more than ten (10) percent or the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, private motoring sub-group (Cat No 6401.0), whichever is the greater. This subclause shall not apply where the leaseback vehicle fee is adjusted to reflect changes in the type of vehicle being used (including changes in vehicle options, the class, model or make of vehicle).*

- (vi) *Variations in hours of work and/or extended periods of absence – Where an employee's hours of work change significantly or the employee is absent on approved leave for an extended period, the council and the employee shall discuss whether the employee will be allowed to retain possession of the vehicle and/or whether the leaseback vehicle fee is to be adjusted. In the event that the leaseback vehicle fee is to be adjusted, subclause (v) above shall not apply. In the absence of agreement, Clause 31, Grievance and Disputes Procedures, shall apply.*

#### **14. TERMINATION OF VEHICLE LEASE ARRANGEMENTS**

Termination of any motor vehicle lease agreement will be in accordance with the Local Government (State) Award 2010 as detailed below:-

##### ***B. TERMINATION OF LEASEBACK VEHICLE ARRANGEMENT***

- (i) *Condition of employment – Unless otherwise provided in this clause, where a council and an employee enter into a leaseback vehicle arrangement and the employee is entitled to a leaseback vehicle as a condition of employment, the arrangement may only be terminated by agreement.*
- (ii) *Not a condition of employment – Unless otherwise provided, where a council and an employee enter into a leaseback vehicle arrangement and the employee is not entitled to a leaseback vehicle as a condition of employment, the council shall give a minimum of six (6) months written notice of termination of the arrangement.*

*Notwithstanding the above, where the leaseback vehicle agreement was entered into prior to 1 November 2010, the council shall give a minimum of 12 months notice to terminate the agreement.*

- (iii) *Other – A council may terminate or suspend access to a leaseback vehicle arrangement immediately on termination of employment, loss of licence, serious breach of the leaseback vehicle agreement or if the employee accepts a new position with the council that does not include access to a leaseback vehicle.*

#### **15. POLICY VARIATIONS**

- 15.1 This policy may be reviewed periodically. Employees will be subject to eligibility/entitlement provisions in accordance with policy conditions as varied from time.
- 15.2 Council reserves the right to revoke the policy.