

**COUNCIL MOTOR VEHICLE LEASEBACK**

**Procedure 5.5.29**

Policy No. and title	5.5	Conditions of Employment Policy
Procedure	5.5.29	Council Motor Vehicle Leaseback
Version	13	
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**INTRODUCTION**

Kempsey Shire Council recognises that it will be required to purchase and maintain an extensive vehicle fleet for the provision of services to the community. Council is committed to maintaining its vehicle fleet in an economically, socially and environmentally responsible manner. The following principles will apply when choosing vehicles:

- Vehicles will be fit for purpose
- Lowest whole of life costs
- Safety with a minimum ANCAP rating of 5 where possible
- Minimum Green Vehicle Guide rating of at least Euro level 5; with the inclusion of Hybrid and/or Electric vehicles where practicable

Council is also committed to achieving its long term vision to become an 'Employer of Choice' and recognises that the modern labour market is highly competitive and that, in order to attract and retain skilled staff in key positions, Council must provide a range of appropriate incentives.

The Motor Vehicle Leaseback Procedure is intended to address these issues by establishing standards and guidelines for the provision of private use of motor vehicles to staff members under a leaseback arrangement.

**1 OBJECTIVES**

- To assist Council to meet its strategic objective to become an 'Employer of Choice'.
- To enable Council to remain competitive with other employers in attracting and retaining skilled staff.
- To enable Council to provide employees with a valuable benefit while at the same time providing some income to offset the cost of maintaining Council's vehicle fleet.
- To provide clear and consistent guidelines for the efficient and effective operation of Council's Motor Vehicle Leaseback scheme.

**2 OWNERSHIP AND AVAILABILITY**

- 2.1 As a basic premise, vehicles are to facilitate delivery of Council services and shall be available as a first priority at all times for this purpose. For those employees who are in charge of a vehicle and are permitted private use, the following conditions strictly apply.

Council vehicles will be available as pool vehicles even though private use leaseback may apply. This means that whilst a staff member who has been allocated a vehicle, while at work on a regular week day, the vehicle must be

available for use by them or other staff for business purposes. Council requirements take first priority during the employees normal working hours with the exception of the leave periods described in clause 8.3.

- 2.2 The vehicle must be kept clean and presentable at all times by the employee.

The transport of animals in council vehicles whilst not encouraged should be kept to a minimum and all efforts must be made to protect the vehicle upholstery and carpet.

If the vehicle is presented at vehicle changeover time in an unsatisfactory condition, the employee will be required to pay the costs of having the vehicle cleaned or repaired.

- 2.3 The Council will provide for repairs, maintenance and insurance of the vehicle and NRMA/Holden wise or similar membership.

- 2.4 When at the employee's residence, the car must be parked off-street and preferably under cover, unless otherwise approved by the Coordinator Fleet and Procurement.

- 2.5 The Council vehicle must not be used in any car rally or competition.

- 2.6 No modifications are to be made or equipment added to or removed from the vehicle without the prior approval of the Coordinator Fleet and Procurement.

- 2.7 Smoking is not permitted under any circumstances in Council vehicles at any time. This includes passengers. Non-compliance of this will lead to a breach of Council's leaseback agreement, which will lead to termination of the agreement.

### **3 FUEL**

- 3.1 The best value for money purchase of fuel is through Councils fuel pumps located at the Depot. For this reason it is preferred that fuel is obtained from the Depot where possible.

- 3.2 Vehicles are also assigned a Fuel Card for the purchase of fuel. The fuel card shall be used at all times when fuelling Council's vehicles at any service station which accepts the issued fuel card. Employees are requested to fuel vehicles to a full tank each time the card is used. The speedometer reading is to be given to the service station operator at the time of fuelling. This practice is preferable as it assists in vehicle management. Consistent failure to use fuel cards or record speedometer readings will be deemed a breach of Council's leaseback agreement, which will lead to termination of the agreement.

- 3.3 The fuel card shall only be used for the purchase of fuel, oil or other fluids for council vehicles. No other purchases using the fuel card are permitted. The use of the fuel card for obtaining bonus points (ie fly buy points) is prohibited as a fringe tax liability is incurred.

- 3.4 Fuel cards must be returned to the Fleet section upon termination of employment. Lost cards must be reported immediately to the Fleet section who will facilitate cancellation of the card.

- 3.5 The cost of fuel while leaseback participants use the vehicle for private travel will be met as follows:

3.5.1 Fuel purchased within New South Wales - cost met by Council.

3.5.2 Fuel purchased outside New South Wales will be met by the leaseback participant.

## **4 LEASEBACK VEHICLE CATEGORIES**

Council will provide eligible employees with the option to participate in the leaseback and private use of a motor vehicle in accordance with the following categories.

### **4.1 Category 1**

This category applies to the General Manager and Directors, who will be provided with the option of a leaseback vehicle in accordance with this Policy and Council's Motor Vehicle Leaseback Agreement.

Employees in this category will have the option of a sedan, hatchback, wagon, 4WD or 2WD SUV. The purchase price must not exceed 30% of the total remuneration package.

### **4.2 Category 2**

This category applies to managers and professional/specialist staff employed under Band 3 or Band 4 of the Local Government (State) Award, where the vehicle is provided as a condition of employment and was negotiated as part of the remuneration package for the position, either at the time of employment or a later date.

The General Manager will determine what positions attract a leaseback motor vehicle in this category, taking into account labour market forces, skills shortages, inability to fill critical positions and other relevant factors.

Council will provide a sedan, hatchback, wagon, 4WD or 2WD SUV that will meet the operational requirements of Council.

### **4.3 Category 3**

This category applies to employees who require the use of a vehicle for operational purposes on a continuous daily basis during work hours, as an integral part of the position they occupy. In such cases, the leaseback agreement is offered as a discretionary benefit that is not a condition of employment.

The relevant Director will determine what employees will have the option of a leaseback vehicle in this category.

Employees in this category will have the option of leasing the vehicle that has been purchased to carry out the operational requirements of Council.

### **4.4 Standard of Vehicles**

The standard of vehicle available will be reviewed and set annually by the Fleet Management Working Group and recorded in Appendix B.

## **5 VEHICLE EXTRAS**

5.1 The employee's Director must approve any extras fitted to the vehicle. Extras that limit flexibility in managing the fleet to ensure lowest ownership cost will not ordinarily be fitted.

5.2 All vehicles provided under Leaseback will be fitted with the following standard accessories, where available:

- Reverse camera
- Bluetooth capabilities
- Floor mats (front and rear)
- Mudflaps (front and rear)
- Seat covers
- Air conditioning
- Anti-lock braking system (ABS)
- Cruise Control
- Metallic or pearl paint (White or Silver)

Council may fit additional accessories if they are required for safety or operational reasons.

5.3 Accessories other than standard vehicle inclusions may be considered, however the employee will need to demonstrate the need for any accessory to their Manager prior to requesting approval for the accessory. Non-standard accessories approved to be fitted to the vehicle will be at the employee's expense for the initial purchase. Council will bear the cost of the accessory on any subsequent vehicle allocated to that employee. No accessory is to be fitted to the vehicle without the consent of the Coordinator Fleet and Procurement.

Non-standard accessories include:

- Tow bars
- Roof racks
- Items not specified in 5.2.

## **6 CHANGEOVER TIME**

6.1 The Coordinator Fleet and Procurement will decide changeover time based on proper assessment of the following:

- Market conditions
- Model release dates
- Warranty conditions
- Local market conditions
- Capital and whole of life costs
- Government contract requirements
- Government tax arrangements.

## **7 CONDITIONS**

7.1 The vehicle may only be driven by the following people:

- 7.1.1 An employee or councillor of Council holding an appropriate current Driver's Licence.
- 7.1.2 The spouse/partner and children of the employee named in the Agreement holding an appropriate current Driver's Licence.
- 7.1.3 Any holder of an appropriate current drivers licence when accompanied by the Council employee.
- 7.1.4 In emergency circumstances, any licensed driver authorised by the Council employee.

7.2 Should the employee authorise any driver under 25 years of age (other than another Council employee) to drive the vehicle and the vehicle is involved in

an accident then the employee shall pay to Council any excess not met by the Council's insurance company due to the driver's age within 30 days of receiving an invoice from Council.

- 7.3 The maximum period for which a vehicle can be used by an employee on annual or long-service leave is nine (9) consecutive weeks. Family leave, sick leave or workers compensation absences of two (2) consecutive weeks or more are at the discretion of the relevant Director who may approve an extended period provided the vehicle is not required for Council purposes during the absence of the employee concerned.
- 7.4 Leaseback drivers will be given one month's notice of intention to replace their current vehicle. A list of available vehicles, lease back rates and anticipated delivery time will be supplied with this notice.
- 7.5 If a driver is convicted of driving under the influence of alcohol or other banned drug or substance resulting from an accident involving a Council vehicle the leaseback holder must pay the total cost of repairs and/or restitution arising out of the accident in the event that Council's insurers deny any insurance claim within 30 days of receiving an invoice from Council.
- 7.6 The vehicle shall not be used for any commercial purpose or in any activity where the lessee derives an income which is not related to the lessee's employment with the Council.
- 7.7 Council is to provide comprehensive insurance cover for the vehicle whilst the vehicle is used for either business or private use.
- 7.8 The insurance policy may not provide cover for the loss of personal possessions or equipment that are damaged, lost or stolen from the Council vehicle. The cost of any loss or damage to personal property from the vehicle not covered by insurance is to be borne by the employee. Any items covered by insurance are restricted to the requirements of said policy.
- 7.9 A leaseback driver involved in more than one at fault accident per year, subject to an investigation, may be required to pay the insurance excess applicable within 30 days of receiving an invoice from Council.

## **8 LEASEBACK CONTRIBUTION RATES**

- 8.1 Leaseback contribution payments for full private use (category 2 and 3) will be set at a level that covers the Fringe Benefit Tax (FBT) liability associated with private use of a Council motor vehicle. The FBT recovery method is calculated using the Statutory Formula consistent with Local Government guidelines. The calculation is:-

**Annual Leaseback Fee = Gross Purchase Price (GPP) x Statutory Formula.**

The GPP is GST inclusive and includes the value of accessories unless these are required for the primary business purpose of the vehicle.

The leaseback fee will be payable by weekly post-tax deductions from the employee's salary. Leaseback fees will be re-set based on this calculation at each vehicle changeover. A new leaseback agreement form will be required for each vehicle changeover.

Where agreement at vehicle changeover is not achieved Council reserves the right to replace the vehicle with a lower value option that is operationally

suitable and/or re-allocate an existing similar valued vehicle from within the fleet to that employee.

The current Statutory Formula, and examples of that formula within each vehicle category are shown at Appendix A.

The leaseback contribution payment for full private use (category 1) of a vehicle is in accordance with the signed total remuneration package of the General Manager or Director.

## **9 FRINGE BENEFIT TAX**

9.1 Employees will pay any additional Fringe Benefits Tax (FBT) liability that might arise from the private use of vehicles provided under this Agreement.

## **10 EMPLOYEE RESPONSIBILITIES**

The employee is responsible for:

- Complying with all relevant road rules and laws.
- Regularly cleaning the vehicle.
- Ensuring regular checking of engine oil, engine coolant and tyre pressures.
- Ensuring services are completed as per manufacturers' recommendations.
- Reporting any defects or damage to the vehicle to the Coordinator Fleet and Procurement.
- Complying with the Council's Smoke Free Workplace Policy by not smoking in the vehicle or allowing others to smoke in the vehicle.
- Garaging the vehicle in a secure off street location (if possible under cover).
- Locking the vehicle when not in use and removing or concealing any equipment that may attract the attention of thieves.
- Returning the vehicle to the appropriate vehicle pool if leave periods set out in Clause 4 (Vehicle Availability During Periods of Leave) of this Agreement are exceeded.
- Recording private and business use in log books during all periods of vehicle operation, as required.
- The reimbursement to Council of any fringe benefit tax liability that might arise from the use of a Council motor vehicle under this Agreement.
- Ensuring that only persons permitted to drive the vehicle (Authorised Drivers) are allowed to drive the vehicle.
- Not driving under the influence of alcohol or drugs, or without a current driver's licence.

Breaches of the above conditions may result in the immediate termination or suspension of the employee's Motor Vehicle Leaseback Agreement.

## **11 BREAKDOWNS AND REPAIRS**

In the event of a breakdown, the employee is to utilise the services of the vehicle's NRMA Roadside Assistance Program.

Should the breakdown occur in a location away from the Council area, the employee may arrange urgent repairs. Reimbursement will be made to the employee, upon production of receipts.

The Council will charge the cost of repairs to the employee if such repairs are the result of wilful negligence, carelessness of the employee, or from using the vehicle in a manner that is contrary to this Agreement.

## **12 ACCIDENTS**

In the event of an accident, the employee must contact the Coordinator of Fleet and Procurement as soon as possible following the accident and complete a Motor Vehicle Insurance Claim form.

Excess payable on insurance claims will be paid for by the Council except where the damage has been caused by wilful negligence, carelessness or the employee, or from using the vehicle in a manner that is contrary to this Agreement and Council's Motor Vehicle Leaseback Procedure, in which case the employee will be responsible for payment of any insurance excess.

## **13 TRAFFIC AND PARKING INFRINGEMENTS**

The employee will be responsible for full payment of the fine if he or she is fined for infringing any traffic or parking rule or law.

If the employee is convicted of driving under the influence of any drug or intoxicating liquor, he or she will be personally liable/responsible for any loss or damage to the Council's or any third party's property arising from driving under the influence. This would include payment of any claim for damage, injury or fine resulting from litigation.

If the employee has his or her driving licence suspended or cancelled for a breach of any road rules or laws, the employee will automatically have the Motor Vehicle Leaseback Agreement suspended. On regaining a licence, the employee may apply for reinstatement of his or her Motor Vehicle Leaseback Agreement.

## **14 TRAVELLING ON TOLL ROADS**

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 TERMINATION**

15.1 Non-compliance with the terms and conditions of this agreement may preclude the employee from further use of the vehicle.

15.2 Abuse or misuse of the vehicle or Fuel Card will lead to disciplinary action being taken which may include the termination of the leaseback agreement on one day's notice.

15.3 The employee may terminate this agreement by giving two weeks written notice to the Coordinator Fleet and Procurement.

15.4 In accordance with the Local Government (State) Award where an employee is not entitled to a leaseback vehicle as a condition of employment Council may terminate this agreement by giving six (6) months written notice. Where a leaseback vehicle agreement was entered into prior to 1 November 2010 twelve (12) months written notice shall be given.

- 15.5 Where an employee is entitled to a leaseback vehicle as a condition of employment the arrangement may be terminated by agreement.

## **16 LOG BOOKS**

- 16.1 Employees will not be required to maintain log books on a permanent basis. The Manager Finance may require employees to prepare log books for a maximum period of 13 weeks annually in order to monitor the proportions of business and private use.
- 16.2 Should log books be required for Fringe Benefits Tax or any other legislated purpose they will be implemented so as to comply with the relevant legislation.

## **17 VEHICLE LEASEBACK TERMS AND CONDITIONS**

- 17.1 Employees who accept private use of a vehicle under a leaseback agreement must sign a copy of Council's Motor Vehicle Leaseback Agreement Terms and Conditions before private use is granted. See *Schedule 1*.

## **18 VARIATION**

The Council reserves the right to vary the terms and conditions of this Agreement subject to two (2) month's written notice to the employee. In accordance with the Local Government (State) Award, such variations will be referred to the Consultative Committee.

## MOTOR VEHICLE LEASEBACK FEE EXAMPLES – APPENDIX A

Below is an example demonstrating how the leaseback fee is calculated:-

Passenger Car – Small

Gross Purchase Price (GPP): \$24,184.85

Statutory Formula (SF): 20%

Annual fee:  $GPP (\$24,184.85) \times SF (20\%) = \$4,836.97$

Weekly Leaseback fee:  $\$4,836.97 / 52 = \$93.02$  per week.

Gross Purchase Price is GST inclusive and is to include the value of accessories unless these are required for the primary business purpose of the vehicle.

Vehicles Available as per Section 4.4

Reviewed and set by the Fleet Management Working Group on 16 November 2020

**Passenger Car – Small (range \$20-25,000\*) (Class 1)**

Toyota Corolla 2.0 Ascent (Hatch/Sedan)  
Toyota Corolla 1.8 Ascent (Hatch/Sedan) - Hybrid  
Toyota Prius C. NHP10R

**Passenger Car – Medium (range \$25-30,000\*) (Class 2)**

Toyota Camry 2.5 Ascent Sedan - Hybrid  
Toyota Camry 2.5 Ascent Sedan  
Toyota Camry 2.5 SX Sedan

**Passenger SUV – Small (range \$24-30,000\*) (Class 2)**

Nissan Qashqai J11 2.0 ST / ST+ / ST-L Wagon  
Toyota C-HR NGX 1.2 5ST CVT Wagon FWD or AWD  
Nissan Juke F15 1.6T TI-S

**Passenger SUV – Medium (range \$25-32,000\*) (Class 3)**

Nissan X-Trail T32 2.5 ST 5ST Wagon FWD (sat nav)  
Nissan X-Trail T32 20 TS 5ST 4x4 Wagon Diesel (sat nav)  
Toyota Rav4 2.0 GX 5ST Wagon FWD or AWD  
Toyota Rav4 2.5 GX 5ST Wagon FWD or AWD Hybrid  
Toyota Rav4 2.5 GXL 5ST Wagon AWD Hybrid

**Passenger SUV – Large (range \$32-38,000\*) (Class 3)**

Isuzu MU-X 3.0T Diesel LS-M or LS-U 7ST Wagon RWD  
Toyota Kluger GSU50R 3.5 GX 7ST Wagon FWD  
Nissan Pathfinder R52 S3 3.5 ST or ST+ 7ST Wagon FWD  
Nissan Pathfinder R52 S3 2.5S 7ST Wagon FWD – Hybrid  
Toyota Tarago ACR50R 2.4 GLI 8ST Wagon FWD

**Commercial – Pickup or Cab Chassis (range \$34-44,000\*) (Class 4)**

Nissan Navara D23 S4 2.3T SL Dual Utility – Diesel 4x4  
Nissan Navara D23 S4 2.3T ST Dual/King Utility 4x4  
Toyota Hilux GUN136R 2.8TD SR Hi Rider Extra/Double Utility 4x2  
Toyota Hilux GUN126R 2.8TD SR Double Utility 4x4  
Toyota Hilux GUN125R 2.4TD Workmate (Double/Extra Utility/Cab Chassis) 4x4  
Toyota Hilux GUN135R 2.4TD Workmate Hi Rider Double Utility – 2x4  
Isuzu Ute D-Max 3.0 LS-T, LS-U or LS-M Space/Crew Utility 4x4

\*Finance range given is based on Government pricing at time of approval, does not include accessories and is only approximate.

## MOTOR VEHICLE LEASEBACK AGREEMENT – SCHEDULE 1

***This Schedule replaces and supersedes any previous Schedule. The Schedule will be amended over the life of the Agreement in accordance with Clause 15 and Clause 18.***

### Part A: Term of Agreement *(tick appropriate box)*

- This schedule operates from \_\_\_\_\_ (insert date) and remains in force unless terminated or varied in accordance with Clause 15 or Clause 18 of the Agreement.
- The right to private use of a Council vehicle is temporary and only applies for a period of \_\_\_\_\_ weeks from \_\_\_\_\_ to \_\_\_\_\_ inclusive.

### Part B: Vehicle Details

The vehicle is provided under the following Leaseback Vehicle Category as set out in Council's Motor Vehicle Leaseback Procedure. *(Tick box as appropriate)*

<b>Vehicle Category:</b>	<input type="checkbox"/> Category 1	<input type="checkbox"/> Category 2	<input type="checkbox"/> Category 3	<input type="checkbox"/> Category 4
<b>Description of Vehicle:</b>				
<b>The Vehicle will be parked off street at:</b>				

### Part C: Accessory Details

Accessories to be fitted at the employee's expense (Clause 7):

<b>Tow Bar</b>	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<b>Roof Rack</b>	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<b>Other:</b>	<input type="checkbox"/> YES <input type="checkbox"/> NO    Specify _____				

### Part D: Contribution Details

Contribution Payments to be Applied (Clause 6):

GROSS PURCHASE PRICE (GPP) x STATUTORY PERCENTAGE (SP) = Weekly leaseback fee

GPP \$ \_\_\_\_\_ x SP 20% = \$ \_\_\_\_\_

### Part E: Authorisation

I, \_\_\_\_\_ (name) hereby acknowledge that I have read, understand and accept the terms and conditions of Kempsey Shire Council's **Motor Vehicle Leaseback Procedure**.

I authorise payroll deductions of \$ \_\_\_\_\_ per week to pay my vehicle leaseback contributions in accordance with the terms and conditions in the Agreement, commencing \_\_\_\_\_ (date). I further authorise the Council to deduct any money owed by me under this Agreement from my final pay, in the event that this Agreement ceases as a result of the termination of my employment.

I acknowledge that this Agreement is provided under Leaseback Vehicle Category 3 in Council's Motor Vehicle Leaseback Procedure and as such does not constitute a condition of my employment as defined by the Local Government (State) Award. *(Delete this paragraph if not applicable)*

<b>Employee Signature:</b>		<b>Date:</b>	
<b>General Manager/Directors Signature:</b>		<b>Date:</b>	