Roads and Maritime Services | December 2018

Agreement for Block Grant Assistance to Council for Regional Roads

(Block Grant Agreement)

2018/19

<< insert name of Council >>

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Dated: 2018

**1. PARTIES**

1.1 Roads and Maritime Services of New South Wales **«**Region**»**

1.2 «Council» Council

**2. INTERPRETATION**

2.1 In this document unless the context otherwise requires the following words and phrases shall have the meanings attributed to them as follows:

2.1.1 "Act" means the Roads Act 1993.

2.1.2 "Maintenance" shall have the meaning it has in the Act.

2.1.3 "Council" means the Council being granted assistance by Roads and Maritime Services for works of construction and maintenance under the Act as set out in this Agreement.

2.1.4 "Financial Year" shall refer to the twelve month period commencing on 1 July 2018 and expiring on 30 June 2019.

2.1.5 "Grant" means the amount of financial assistance agreed to be granted to Council by Roads and Maritime Services in accordance with the terms of this Agreement.

2.1.6 "Local Government Area" shall have the same meaning as in the Local Government Act 1993.

2.1.7 "Regional Roads" means the roads in respect of which Roads and Maritime Services and Council have agreed that a grant shall be made as set out in this Agreement.

2.1.8 "Traffic Facilities" means all facilities installed to assist the flow of traffic and to maximise road safety.

2.1.9 “Works" means all acts of construction, maintenance, improvements and related planning, design, environmental surveys upon Regional Roads and all incidental on site acts in any way related to such activities.

2.1.10 “Agreement” means the Agreement for Block Grant Assistance to Councils for Regional Roads 2018/19

**3. RECITALS**

3.1 Roads and Maritime and councils throughout New South Wales share responsibility for the management of the roads and traffic system in New South Wales and are committed to a joint consultative approach to the exercise of that responsibility.

3.2 Roads and Maritime and councils have a mutual interest to ensure that adequate funds are available from all spheres of government so that the roads and traffic system in New South Wales is managed in a manner acceptable to the community.

3.3 Roads and Maritime and councils recognise that effective and efficient planning, management, administrative, funding and classification arrangements are necessary in the current economic and social climate.

3.4 Roads and Maritime and Council therefore enter into this binding Agreement to govern the payment of the Grant.

**4. GRANT OF FINANCIAL ASSISTANCE**

4.1 The parties hereby agree that Roads and Maritime shall pay the Grant in respect of Works to Council for the Financial Year 1 July 2018 to 30 June 2019 in accordance with the terms contained in this Agreement.

**5. GRANT**

**Amount**

5.1 Roads and Maritime shall pay the Grant to Council in the amount set out in Schedule 1 of this Agreement. The Grant shall have three components:

5.1.1 Roads;

5.1.2 Traffic Facilities; and

5.1.3 Supplementary.

**Regional Roads**

5.2 The parties agree that the Regional Roads to which this Agreement applies shall be that portion of the Regional Roads listed in Schedule 2 of this Agreement which falls within the local government area of Council.

**Expenditure on Works**

5.3 Council agrees to expend the Grant to conform with an appropriate standard as determined by Council in their capacity as a roads authority and in accordance with Council’s Integrated Planning and Reporting plans only on:

5.3.1 Works on Regional Roads; and

5.3.2 Works relating to Traffic Facilities on Regional and Local roads.

5.4 Roads and Maritime acknowledges that financial assistance additional to the Grant may be granted by Roads and Maritime in respect of specific works on Regional Roads.

**Flood and Storm Damage**

5.5 Roads and Maritime acknowledges that financial assistance additional to the Grant may be granted by Roads and Maritime in respect of urgent repairs or emergency works necessary upon Regional Roads.

5.6 Roads and Maritime acknowledges that financial assistance additional to the Grant may be granted by Roads and Maritime where, owing to damage to roads, ferries or bridges by flood or storm damage, it is necessary to provide alternative routes or provide additional facilities for traffic purposes.

**6. PAYMENT OF FINANCIAL ASSISTANCE**

6.1 Roads and Maritime shall pay the Grant to Council by four quarterly instalments. The final instalment will only become payable on receipt from Council of any outstanding documents, comprising:

6.1.1 Submission to the Regional Director of a signed copy of this Agreement;

6.1.2 A certificate of expenditure for the 2017/18 year in accordance with Clause 6.3 and Schedule 3 of this Agreement;

6.1.3 A report of expenditure and works for the 2017/18 year completed in accordance with Clause 7.1 and Schedule 4A of this Agreement, and

6.1.4 A report on the inventory of Regional Roads including bridges for the 2017/18 year in accordance with Clause 7.2 and Schedule 4B of this Agreement.

6.2 Payment of the first two Grant instalments were made within the months of August and October 2018. The third instalment will be made to Council no later than 31 January 2019.

6.3 Payment of the final instalment will be made to Council when the outstanding documents set out in Clauses 6.1.1 to 6.1.4 are received by RMS.

6.4 Council agrees to forward to Roads and Maritime a Certificate of Expenditure for the 2017/18 year in the form prescribed in Schedule 3 of this Agreement.

**Under Expenditure**

6.5 Council is expected to have fully expended the Grant by 30 June 2019.

6.6 Any remaining part of the Grant not expended by 30 June 2019 will be regarded as a payment against the Grant for the subsequent financial year.

**7. COUNCIL REPORTING**

7.1 Council agrees to forward to Roads and Maritime a report detailing expenditure, from all council sources, and work outputs for Regional Roads in accordance with Schedule 4A of this Agreement for the 2017/18 year. This report is to show all expenditure on road works and traffic control works on Regional Roads from all Council's funding sources.

7.2 Council agrees to forward to Roads and Maritime updated inventory information in accordance with Schedule 4B of this Agreement for the 2017/18 year. Council is required to fully report on its inventory of Regional Roads under Schedule 4B, including where there is no change from previous year’s inventory.

**8. INSPECTION OF RECORDS**

8.1 Council agrees to give any authorised officer of Roads and Maritime all information, evidence, access to Council's records, documents and facilities for inspection reasonably required in connection with the expenditure of the Grant. Any officer of Roads and Maritime who is authorised by Roads and Maritime in writing to seek and obtain such information and other matters shall be deemed to have been authorised for the purposes of this clause.

8.2 Council recognises that it may be selected at random during the period of the agreement to be the subject of an audit of expenditure of the Grant.

**9. INDEMNITY**

9.1 Council shall indemnify and save harmless and keep indemnified Roads and Maritime from and against all damages, costs, charges and expenses of any nature whatsoever paid suffered or incurred by Council in respect of any action claim suit or proceedings taken by or incurred by Council in respect of any Works carried out involving expenditure of the Grant except where Roads and Maritime may itself be liable in respect of any Works upon which it has subcontracted for reward.

9.2 Any damages, costs, charges or expenses of any nature whatsoever paid suffered or incurred by Council in respect of any action, claim, suit or proceedings taken by or against Council and relating to Works carried out involving expenditure of the Grant shall be paid or borne by Council and shall not be paid out of the Grant; provided however that this restriction on expenditure of the Grant shall not apply to any action, claim, suit or proceedings involving disputes between Council and contractors or sub- contractors engaged in or assisting in Works.

10**. DEFAULT**

10.1 If there is any default by Council in the observance or performance of this Agreement, Council shall, on demand being made by Roads and Maritime, refund the whole or such part as determined by Roads and Maritime of the moneys which at the date of such demand have been paid by Roads and Maritime on account of the Grant, together with interest thereon at the rate of 6 per cent per annum, calculated from the dates of payment thereof up to the date of refund.

10.2 If Roads and Maritime so determines, the amount for which a demand has been made under Clause 9.1 may be set off against a grant for the succeeding year rather than repaid.

10.3 The parties agree that any dispute or claim whatsoever arising in connection with this Agreement shall be submitted to mediation administered by the Australian Commercial Disputes Centre Limited (**"ACDC"**). The mediator shall be a person agreed between the parties chosen from a list suggested by ACDC and failing agreement shall be a person nominated by the Secretary General of ACDC. All costs, charges and expenses resulting from referral to the ACDC shall be borne equally by the parties. In the event that the dispute or claim has not been resolved within 28 days (or such other period as agreed to in writing between the parties hereto) of appointment of the mediator the claim shall be submitted to litigation.

**11. RECOVERY OF COST OF DAMAGE TO ROADS**

11.1 In respect of damage to Regional Roads, Council agrees to carry out repairs and use its best endeavours to recover the cost of such repairs in accordance with Section 102 of the Roads Act.

11.2 The parties agree that the Grant may be expended on the cost of repairs carried out under Clause 11.1. Council agrees that any amount recovered by it pursuant to Clause 11.1 may be applied by Council in accordance with the terms of this Agreement as if such amount was part of the Grant.

**12. GENERAL**

12.1 This document shall be read and construed and take effect in accordance with the laws of New South Wales from time to time in force and providing that the procedures outlined in Clause 10.3 have been exhausted the parties hereby agree to subject themselves to the jurisdiction of the courts of New South Wales and any court competent to hear appeals there from.

12.2 Where any time limit pursuant to this document falls on a Saturday, Sunday or public holiday in the State or Territory whose laws apply in the construction hereof then that time limit shall be deemed to have expired on the next business day thereafter.

12.3 Where a word or phrase is given a defined meaning in this document, any other part of speech or other grammatical form in respect of such word or phrase shall unless the context otherwise requires have a corresponding meaning.

12.4 No amendment of or addition to the provisions of this document shall be valid and binding unless it is in writing and signed by both the parties.

12.5 The illegality of any provision of this document shall not affect the validity or enforceability of the other provisions hereof.

12.6 The headings and index used in this document are for convenience only and shall not affect the interpretation of this document.

**13. NOTICES**

13.1 Every Notice or Certificate or any communication between the parties referred to in this Agreement shall be put in writing and either delivered personally or sent by prepaid letter, email or facsimile and shall be deemed to have been received:

13.1.1 in the case of a letter, when delivered personally or three days after it has been put in the post; and

13.1.2 in the case of a facsimile or email, at the time the machine or computer at which the facsimile or email is transmitted displays or records confirmation that transmission has been completed.

13.2 Provided that, in the case of a facsimile, where such communication is received on a day other than a business day or after 5:00pm on a business day, it shall be deemed to have been received on the next following business day. Every notice shall be addressed to the relevant party as follows:

Roads and Maritime : «Address»

Council: «Address1»

or such other address or email or facsimile number as is notified by one party to the other party under this Agreement.

IN WITNESS of the above provisions and the following Schedules the parties have executed this Agreement on the date first hereinbefore appearing.

**Duly signed by the Regional Director of the**   **Region as delegate of Roads and Maritime Services:**

Regional Director signature Regional Director name

Witness signature Witness name

**Duly signed by the General Manager on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Council:**

General Manager signature General Manager name

Witness signature Witness name

**Date:**

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| **SCHEDULE 1**  **Amount of Grant** |

Council Name: **«Council»**

The Grant from Roads and Maritime to the Council for the financial year 1 July 2018 to 30 June 2019 shall be for the total sum of:

|  |  |
| --- | --- |
| Comprising: | $ « Total » |
| Roads component: | $ « Roads » |
| Traffic Facilities component | $ « Traffic » |
| Supplementary component | $ « Supplementary » |

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| **SCHEDULE 2**  **List of Regional Roads** |

**Council Name: «Council»**

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| --- | --- |
| **Road Number Road Name/Description** | **Length (km)** |
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