Roads and Maritime Services | August 2019

Agreement for Block Grant Assistance to Council for Regional Roads

(Block Grant Agreement)

2019/20

<< insert name of Council >>

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Dated: 2019

**1. PARTIES**

1.1 Roads and Maritime Services, a NSW Government agency constituted under s 46 of the *Transport Administration Act 1988* (“Roads and Maritime”)

1.2 «Insert full name of Council and ABN» (“Council”) (together, “parties”)

**2. INTERPRETATION**

2.1 In this document unless the context otherwise requires the following words and phrases have the meanings given to them below:

2.1.1 "Act" means the *Roads Act 1993*.

2.1.2 “Agreement” means the agreement recorded in this document.

2.1.3 "Grant" means the amount of financial assistance given by Roads and Maritime to Council under the terms of this Agreement.

2.1.4 “Regional Director” means Roads and Maritime’s Director, [insert region].

2.1.5 "Regional Roads" means the roads for which the Grant is to be made as set out in this Agreement.

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

2.1.7 “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.

**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 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 has offered to pay the Grant to Council on the terms set out in this Agreement and Council has accepted that offer. This Agreement is entered into under Division 1 of Part 13 of the Act.

**4. PAYMENT AND EXPENDITURE OF GRANT**

4.1 The parties hereby agree that Roads and Maritime shall pay, and Council may only expend, the Grant for the financial year 1 July 2019 to 30 June 2020 in accordance with the terms contained in this Agreement.

**5. GRANT**

**Amount**

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

5.1.1 Roads;

5.1.2 Traffic Facilities; and

5.1.3 Supplementary.

**Regional Roads**

5.2 This Agreement applies to the portion of the Regional Roads listed in Schedule 2 of this Agreement that falls within the local government area of Council.

**Expenditure on Works**

5.3 The Grant may only be expended in accordance with Council’s Integrated Planning and Reporting plans, and only on:

5.3.1 Works on Regional Roads; and

5.3.2 Works directly relating to Traffic Facilities on Regional Roads and local roads.

5.4 Roads and Maritime may grant financial assistance in addition to the Grant for specific Works on Regional Roads in its absolute and unfettered discretion.

**Flood and Storm Damage**

5.5 Roads and Maritime may grant financial assistance in addition to the Grant for urgent repairs or emergency Works necessary on Regional Roads.

5.6 Roads and Maritime may grant financial assistance in addition to the Grant where, as a result of damage to one or more of the Regional Roads, road ferries or road bridges by flood or storm, alternative routes or additional facilities must be provided for traffic purposes.

**6. PAYMENT OF FINANCIAL ASSISTANCE**

6.1 The Grant is to be paid to Council in two instalments (being the “first” and “second” instalments referred to in this clause 6).

6.2 Roads and Maritime paid the first instalment (comprising funds for quarters 1 and 2) on 19 July 2019 and is to pay the second instalment (comprising funds for quarters 3 and 4) on 20 January 2020.

6.3 Councils are to submit the following information to the Regional Director, Roads and Maritime by **30 September 2019**:

6.3.1 a signed copy of this Agreement;

6.3.2 a certificate of expenditure for the 2018/19 year in the form prescribed in Schedule 3 of this Agreement;

6.3.3 a report of expenditure and works for the 2018/19 year completed in accordance with Clause 7.1 and Schedule 4A of this Agreement, and

6.3.4 a report on the inventory of Regional Roads including bridges for the 2018/19 year in accordance with Clause 7.2 and Schedule 4B of this Agreement.

6.3 The second instalment will not be paid unless all documents set out in clause 6.3 are received by Roads and Maritime by or on **30 September 2019**.

**Under Expenditure**

6.5 Council is expected to have fully expended the Grant by 30 June 2020.

6.6 Any remaining part of the Grant not expended by 30 June 2020 will be deducted from the Grant for a subsequent financial year.

**7. COUNCIL REPORTING**

7.1 Council must forward to Roads and Maritime a report detailing expenditure, from all Council funding sources, and work outputs for Regional Roads for the year 2018/19 in the form prescribed in Schedule 4A to this Agreement.

7.2 Council must forward to Roads and Maritime updated inventory information in the form prescribed in Schedule 4B of this Agreement for the 2018/19 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 must 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 promptly upon request. Any officer of Roads and Maritime who is authorised by Roads and Maritime in writing to seek and obtain such information and other matters is deemed to have been authorised for the purposes of this clause.

8.2 Council understands that an audit of expenditure of the Grant may be carried out at any time during the period of the Agreement.

8.3 Nothing in this clause 8 affects Roads and Maritime’s rights to direct Council to furnish information under s 228 of the Act, or otherwise.

**9. INDEMNITY**

9.1 Council must indemnify, hold 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 is itself liable in respect of any Works upon which it has subcontracted for reward and the liability arises in connection with that subcontract.

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 must be paid or borne by Council and must not be paid out of the Grant; provided however that this restriction on expenditure of the Grant does 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 must, on demand by Roads and Maritime, refund the whole or such part as determined by Roads and Maritime of the monies 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 Any dispute or claim whatsoever arising in connection with this Agreement must be submitted to mediation administered by the Australian Commercial Disputes Centre Limited (**"ACDC"**). The mediator must be agreed between the parties chosen from a list suggested by ACDC. If agreement cannot be reached, the mediator must be 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 Act.

11.2 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/section 102 of the Act may be applied by Council in accordance with the terms of this Agreement as if such amount were part of the Grant.

**12. GENERAL**

12.1 This document is to 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 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 are 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 has a corresponding meaning unless the context requires otherwise. .

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

12.5 The illegality of any provision of this document does 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 do 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 must be in writing and either delivered personally or sent by prepaid letter, email or facsimile and is 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. Except where a facsimile is received on a day other than a business day or after 5:00pm on a business day, it is deemed to have been received on the next following business day.

13.2 Every notice must 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 2019 to 30 June 2020 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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