



STRONGER COMMUNITIES FUND

FUNDING AGREEMENT

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- In September 2017 the NSW Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.
- The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

1.1 **Funding Request:** In consideration for the submission of the completed Grant Application Form being Attachment 1, Council agrees to accept and apply the funds provided by OLG (the Funding) in accordance with and subject to the terms of this Agreement.

1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the:

- (a) Stronger Communities Fund Grants Guidelines (Attachment 2), and
- (b) Funding Acknowledgment Guidelines for Recipients of NSW Government Grants (which can be found at):
<https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

all as amended from time to time (the relevant Guidelines).

2. Payment

- 2.1 **Payment:** Subject to this Agreement, OLG shall pay the Grant Funds to Council upon receipt of the Grant Form duly executed by the Council.
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.
- 2.4 **Default:** OLG will not be in default of its obligation to pay the Funding if it is paid within 30 days of OLG receiving all necessary requirements from the Council.

3. GST:

- 3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.
- 3.2 **What happens if GST is imposed:** If:
- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement, and
 - (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

- 3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.
- 3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (GST).
- 3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (GST) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 Use of Funding: Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines,
- (b) only use the Funding within the Funding Period,
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines, and
- (d) fully acquit the funding by 30 June 2020.

4.2 Unspent Funding:

- (a) Any unspent or uncommitted funds held by Council at 31 December 2019 must be returned to OLG by 31 March 2020,
- (b) Council may request to extend this timeframe, and
- (c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 Bank account: Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 Interest: The Funding must be paid into an interest earning account and

- (a) unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.
- (b) the Funding is to be accounted for separately and funds should be reported as an internally restricted asset within Councils financial statements.

5. Expenditure of the Funding

5.1 Expenditure of Funding: Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form,
- (b) the relevant Guidelines,
- (c) information provided to OLG through the notification process defined in the relevant Guidelines, and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

- 5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:
- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them,
 - (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement, and
 - (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.
- 5.3 Any funding shortfall or funding for ongoing operational activity will be funded by the Council

6. **Accountability**

- 6.1 **Records:** Council must:
- (a) ensure that adequate operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding,
 - (b) ensure that Council keep financial records concerning the expenditure of Grant funding, in accordance with section 412(1) of the *Local Government Act 1993*,
 - (c) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.
- 6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.
- 6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.
- 6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.
- 6.5 Nothing in this Agreement prevents the Minister for Local Government or the Chief Executive of OLG from exercising powers available to them under the *Local Government Act 1993*.

7. Reports

Required reports Council will submit to OLG the Reports within the timeframe stipulated by the Guidelines, and any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

These include, but are not limited to:

- a) By 22 December 2018, council's plan for the delivery of all projects the subject of the funding (the Delivery Plan). The Delivery Plan is to include information on governance arrangements, costings, timeframes and expected benefits.
- b) Council is to table progress reports at least quarterly to an ordinary council meeting. The progress report is to include the expenditure and outcomes achieved against the Delivery Plan. This reporting is to continue until the conclusion of the project.
- c) Council must provide a six monthly report each year by the 31 August and 28 February, to the OLG on the delivery progress and expenditure of the Funding.
- d) A final report is to be submitted upon the completion of each project the subject of the Funding. The final report is to include photographs and details of the benefits and outcomes achieved as well as a report against the Delivery Plan.

8. Publicity

8.1 **Acknowledgement:** Council will ensure that all public statements relating to any project the subject of the Funding will acknowledge the provision of the Funding by the NSW Government and that it will incorporate the terms set out in Item 5 of Attachment 1.

8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:

- (a) The Council name,
- (b) The name of any End Recipient,
- (c) The amount of the Funding, and
- (d) The title, a brief description and images of any project benefiting from the Funding.

8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded,
- (b) Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* in any publicity provisions of any kind (including any brochures, signage, advertising and invitations), and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:
 - (a) comply with all applicable standards, laws, regulations policies and statements,
 - (b) not do anything that would cause OLG to breach its obligations under any legislation, and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:
 - (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG, and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 Delivery of Reports and Return of Confidential Information:

Council must provide to OLG:

- (a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG, and
- (b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 3.
- (c) The Project Funding period will end upon the submission of an Acquittal Certificate acceptable to OLG.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

- (a) in writing, directed to the representative of the other party, and
- (b) be forwarded to the address, facsimile number or the email address of that representative,
- (c) if to OLG sent to the address set out on the front page of this agreement,
- (d) if to the Council to the address as set out in Item 1 of Attachment 1.

- 13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:
- (a) in the case of delivery in person – when delivered to the recipient’s address for service and a signature received as evidence of delivery,
 - (b) in the case of delivery by post – within three (3) Business Days of posting,
 - (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, or
 - (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.
- 13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.
- 13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.
- 13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.
- 13.8 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties,
 - (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

ATTACHMENT 1

GRANT APPLICATION FORM

This attachment forms part of the Funding Agreement

between OLG and Armidale Regional Council

Item 1 Council Details

Council: Mr Chris Rose
Interim General Manager
Armidale Regional Council
PO Box 75A
ARMIDALE NSW 2350

Item 2 Approved Project(s)

Project – Stronger Communities Fund	Allocation (\$'000)
Water Infrastructure Upgrades, Guyra	5,950
	5,950

Item 3 Funding Period

End date: 30 June 2020

Item 4 Grant Funding

Funding Sought:

Stronger Communities Funding: \$5,950,000

Total Amount of Grant Funding sought: \$5,950,000

Item 5 Publicity

Additional terms:

Council must ensure that the following wording appears on all Funding Project Materials:

- (a) "Funded by NSW Government through the Stronger Communities Fund", or where applicable
- (b) "Funded by NSW Government through the New Council Implementation Fund".

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement, and
- (b) workers' compensation insurance in accordance with applicable legislation in respect of all of Council employees.

EXECUTED AS A DEED by Council on 9/8/18 2018.

Signed on behalf of the Council by its)
 General Manager Pursuant to Authority)
 Delegated by the Council)

In the presence of:)

Mark Prokousky)

(Name of Witness))

.....)
 (Name of Interim/General Manager)

) SUSAN LAW)

.....)
 (signature)

ATTACHMENT 2

Stronger Communities Fund – Tied Grant Round Guidelines

1. Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

3. Available funding

Stronger Communities tied grants will be provided to new councils created in 2016 and councils previously subject to a merger proposal. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

4. How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

5. Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

6. Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community, and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

7. What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems,

- financial management systems or change management programs,
- costs associated with the preparation for or legal challenges to merger proposals,
- upgrading of council's administration buildings, or
- ongoing staff or operational costs.

8. Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2019 and all funding acquitted before 30 June 2020. Timeframes for any future funding rounds will be as determined within the Funding Agreement.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By December 2018, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

9. Acknowledgement

The funding agreement will specify that funding is conditional on agreement to the Funding Acknowledgment Guidelines for Recipients of NSW Government Grants which can be found at <https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

In particular, each Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.

- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations).
- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

10. Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2019 and fully acquitted by 30 June 2020. Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

11. Contacts

Council's Office of Local Government Council Engagement Manager is available to provide advice on the Stronger Communities Fund.

ATTACHMENT 3

Acquittal Certificate

CERTIFICATION STATEMENT BY GRANT RECIPIENT

Certification by the General Manager of the grant recipient council

I, [insert name and position]

Solemnly and sincerely declare: [DELETE 1 OR 2 AS APPLICABLE]

1. An amount equal to the total Grant paid \$[insert amount] **has been expended** on the Project in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the Office of Local Government (OLG).

OR

2. The total Grant of \$[insert amount] has not been expended. An amount of \$[insert amount] has not been expended and – [DELETE (a) OR (b) AS APPLICABLE]

(a) a cheque for this amount made payable to the OLG is attached.

OR

(b) An electronic funds transfer for this amount has been transferred into the bank account of OLG.

All funds were expended in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the OLG;

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: on
[place] [date]

.....
[signature of declarant]

in the presence of an authorised witness, who states:

I, a
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document and the document I relied on was

.....
[describe identification document relied on]

.....
[signature of authorised witness] [date]



STRONGER COMMUNITIES FUND FUNDING AGREEMENT

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- In September 2017 the NSW Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.
- The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

1.1 **Funding Request:** In consideration for the submission of the completed Grant Application Form being Attachment 1, Council agrees to accept and apply the funds provided by OLG (the Funding) in accordance with and subject to the terms of this Agreement.

1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the:

- (a) Stronger Communities Fund Grants Guidelines (Attachment 2), and
- (b) Funding Acknowledgment Guidelines for Recipients of NSW Government Grants (which can be found at):
<https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

all as amended from time to time (the relevant Guidelines).

2. Payment

- 2.1 **Payment:** Subject to this Agreement, OLG shall pay the Grant Funds to Council upon receipt of the Grant Form duly executed by the Council.
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.
- 2.4 **Default:** OLG will not be in default of its obligation to pay the Funding if it is paid within 30 days of OLG receiving all necessary requirements from the Council.

3. GST:

- 3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.
- 3.2 **What happens if GST is imposed: If:**
- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement, and
 - (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

- 3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.
- 3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (GST).
- 3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (GST) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 Use of Funding: Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines,
- (b) only use the Funding within the Funding Period,
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines, and
- (d) fully acquit the funding by 30 June 2020.

4.2 Unspent Funding:

- (a) Any unspent or uncommitted funds held by Council at 31 December 2019 must be returned to OLG by 31 March 2020,
- (b) Council may request to extend this timeframe, and
- (c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 Bank account: Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 Interest: The Funding must be paid into an interest earning account and

- (a) unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.
- (b) the Funding is to be accounted for separately and funds should be reported as an internally restricted asset within Councils financial statements.

5. Expenditure of the Funding

5.1 Expenditure of Funding: Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form,
- (b) the relevant Guidelines,
- (c) information provided to OLG through the notification process defined in the relevant Guidelines, and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

- 5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:
- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them,
 - (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement, and
 - (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.
- 5.3 Any funding shortfall or funding for ongoing operational activity will be funded by the Council
- 6. Accountability**
- 6.1 **Records:** Council must:
- (a) ensure that adequate operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding,
 - (b) ensure that Council keep financial records concerning the expenditure of Grant funding, in accordance with section 412(1) of the *Local Government Act 1993*,
 - (c) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.
- 6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.
- 6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.
- 6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.
- 6.5 Nothing in this Agreement prevents the Minister for Local Government or the Chief Executive of OLG from exercising powers available to them under the *Local Government Act 1993*.

7. Reports

Required reports Council will submit to OLG the Reports within the timeframe stipulated by the Guidelines, and any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

These include, but are not limited to:

- a) By 22 December 2018, council's plan for the delivery of all projects the subject of the funding (the Delivery Plan). The Delivery Plan is to include information on governance arrangements, costings, timeframes and expected benefits.
- b) Council is to table progress reports at least quarterly to an ordinary council meeting. The progress report is to include the expenditure and outcomes achieved against the Delivery Plan. This reporting is to continue until the conclusion of the project.
- c) Council must provide a six monthly report each year by the 31 August and 28 February, to the OLG on the delivery progress and expenditure of the Funding.
- d) A final report is to be submitted upon the completion of each project the subject of the Funding. The final report is to include photographs and details of the benefits and outcomes achieved as well as a report against the Delivery Plan.

8. Publicity

8.1 **Acknowledgement:** Council will ensure that all public statements relating to any project the subject of the Funding will acknowledge the provision of the Funding by the NSW Government and that it will incorporate the terms set out in Item 5 of Attachment 1.

8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:

- (a) The Council name,
- (b) The name of any End Recipient,
- (c) The amount of the Funding, and
- (d) The title, a brief description and images of any project benefiting from the Funding.

8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded,
- (b) Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* in any publicity provisions of any kind (including any brochures, signage, advertising and invitations), and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:
 - (a) comply with all applicable standards, laws, regulations policies and statements,
 - (b) not do anything that would cause OLG to breach its obligations under any legislation, and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:
 - (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG, and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 Delivery of Reports and Return of Confidential Information:

Council must provide to OLG:

- (a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG, and
- (b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 3.
- (c) The Project Funding period will end upon the submission of an Acquittal Certificate acceptable to OLG.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

- (a) in writing, directed to the representative of the other party, and
- (b) be forwarded to the address, facsimile number or the email address of that representative,
- (c) if to OLG sent to the address set out on the front page of this agreement,
- (d) if to the Council to the address as set out in Item 1 of Attachment 1.

- 13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:
- (a) in the case of delivery in person – when delivered to the recipient’s address for service and a signature received as evidence of delivery,
 - (b) in the case of delivery by post – within three (3) Business Days of posting,
 - (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, or
 - (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.
- 13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.
- 13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.
- 13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.
- 13.8 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties,
 - (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

ATTACHMENT 1

GRANT APPLICATION FORM

This attachment forms part of the Funding Agreement

between OLG and Burwood Council

Item 1 Council Details

Council: Mr Bruce Macdonnell
General Manager
Burwood Council
PO Box 240
BURWOOD NSW 1805

Item 2 Approved Project(s)

Project – Stronger Communities Fund	Allocation (\$'000)
Henley Park Upgrades – sports field lighting, drainage and turf improvements, Futsal pitch, refurbish amenities	2,600
	2,600

Item 3 Funding Period

End date: 30 June 2020

Item 4 Grant Funding

Funding Sought:

Stronger Communities Funding: \$2,600,000

Total Amount of Grant Funding sought: \$2,600,000

Item 5 Publicity

Additional terms:

Council must ensure that the following wording appears on all Funding Project Materials:

- (a) "Funded by NSW Government through the Stronger Communities Fund", or where applicable
- (b) "Funded by NSW Government through the New Council Implementation Fund".

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement, and
- (b) workers' compensation insurance in accordance with applicable legislation in respect of all of Council employees.

EXECUTED AS A DEED by Council on 18 July 2018 2018.

Signed on behalf of the Council by its)
 General Manager Pursuant to Authority)
 Delegated by the Council)

In the presence of:)

Veta Karpowicz)
 (Name of Witness))

Bruce Macdonnell)
 (Name of ~~Interim~~ General Manager))

.....)
 (signature)

ATTACHMENT 2

Stronger Communities Fund – Tied Grant Round Guidelines

1. Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

3. Available funding

Stronger Communities tied grants will be provided to new councils created in 2016 and councils previously subject to a merger proposal. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

4. How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

5. Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

6. Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community, and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

7. What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems,

- financial management systems or change management programs,
- costs associated with the preparation for or legal challenges to merger proposals,
- upgrading of council's administration buildings, or
- ongoing staff or operational costs.

8. Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2019 and all funding acquitted before 30 June 2020. Timeframes for any future funding rounds will be as determined within the Funding Agreement.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By December 2018, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

9. Acknowledgement

The funding agreement will specify that funding is conditional on agreement to the Funding Acknowledgment Guidelines for Recipients of NSW Government Grants which can be found at <https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

In particular, each Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.

- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations).
- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

10. Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2019 and fully acquitted by 30 June 2020. Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

11. Contacts

Council's Office of Local Government Council Engagement Manager is available to provide advice on the Stronger Communities Fund.

ATTACHMENT 3

Acquittal Certificate

CERTIFICATION STATEMENT BY GRANT RECIPIENT

Certification by the General Manager of the grant recipient council

I, [insert name and position]

Solemnly and sincerely declare: [DELETE 1 OR 2 AS APPLICABLE]

1. An amount equal to the total Grant paid \$[insert amount] **has been expended** on the Project in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the Office of Local Government (OLG).

OR

2. The total Grant of \$[insert amount] has not been expended. An amount of \$[insert amount] has not been expended and – [DELETE (a) OR (b) AS APPLICABLE]

(a) a cheque for this amount made payable to the OLG is attached.

OR

(b) An electronic funds transfer for this amount has been transferred into the bank account of OLG.

All funds were expended in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the OLG;

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: on
[place] [date]

.....
[signature of declarant]

in the presence of an authorised witness, who states:

I, a
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document and the document I relied on was

.....
[describe identification document relied on]

.....
[signature of authorised witness]

.....
[date]



STRONGER COMMUNITIES FUND FUNDING AGREEMENT

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

DOCUMENT ID: Ab15513

SCANNED TO OBJ: checked as OK

HARD COPY TO BE FILED: Yes / No

FILE NO.: _____



Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- In September 2017 the NSW Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.
- The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

1.1 **Funding Request:** In consideration for the submission of the completed Grant Application Form being Attachment 1, Council agrees to accept and apply the funds provided by OLG (the Funding) in accordance with and subject to the terms of this Agreement.

1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the:

- (a) Stronger Communities Fund Grants Guidelines (Attachment 2), and
- (b) Funding Acknowledgment Guidelines for Recipients of NSW Government Grants (which can be found at):
<https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

all as amended from time to time (the relevant Guidelines).

2. Payment

- 2.1 **Payment:** Subject to this Agreement, OLG shall pay the Grant Funds to Council upon receipt of the Grant Form duly executed by the Council.
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.
- 2.4 **Default:** OLG will not be in default of its obligation to pay the Funding if it is paid within 30 days of OLG receiving all necessary requirements from the Council.

3. GST:

- 3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.
- 3.2 **What happens if GST is imposed:** If:
- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement, and
 - (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

- 3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.
- 3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (GST).
- 3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (GST) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 Use of Funding: Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines,
- (b) only use the Funding within the Funding Period,
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines, and
- (d) fully acquit the funding by 30 June 2020.

4.2 Unspent Funding:

- (a) Any unspent or uncommitted funds held by Council at 31 December 2019 must be returned to OLG by 31 March 2020,
- (b) Council may request to extend this timeframe, and
- (c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 Bank account: Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 Interest: The Funding must be paid into an interest earning account and

- (a) unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.
- (b) the Funding is to be accounted for separately and funds should be reported as an internally restricted asset within Councils financial statements.

5. Expenditure of the Funding

5.1 Expenditure of Funding: Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form,
- (b) the relevant Guidelines,
- (c) information provided to OLG through the notification process defined in the relevant Guidelines, and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

- 5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:
- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them,
 - (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement, and
 - (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.
- 5.3 Any funding shortfall or funding for ongoing operational activity will be funded by the Council

6. **Accountability**

- 6.1 **Records:** Council must:
- (a) ensure that adequate operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding,
 - (b) ensure that Council keep financial records concerning the expenditure of Grant funding, in accordance with section 412(1) of the *Local Government Act 1993*,
 - (c) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.
- 6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.
- 6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.
- 6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.
- 6.5 Nothing in this Agreement prevents the Minister for Local Government or the Chief Executive of OLG from exercising powers available to them under the *Local Government Act 1993*.

7. Reports

Required reports Council will submit to OLG the Reports within the timeframe stipulated by the Guidelines, and any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

These include, but are not limited to:

- a) By 22 December 2018, council's plan for the delivery of all projects the subject of the funding (the Delivery Plan). The Delivery Plan is to include information on governance arrangements, costings, timeframes and expected benefits.
- b) Council is to table progress reports at least quarterly to an ordinary council meeting. The progress report is to include the expenditure and outcomes achieved against the Delivery Plan. This reporting is to continue until the conclusion of the project.
- c) Council must provide a six monthly report each year by the 31 August and 28 February, to the OLG on the delivery progress and expenditure of the Funding.
- d) A final report is to be submitted upon the completion of each project the subject of the Funding. The final report is to include photographs and details of the benefits and outcomes achieved as well as a report against the Delivery Plan.

8. Publicity

8.1 **Acknowledgement:** Council will ensure that all public statements relating to any project the subject of the Funding will acknowledge the provision of the Funding by the NSW Government and that it will incorporate the terms set out in Item 5 of Attachment 1.

8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:

- (a) The Council name,
- (b) The name of any End Recipient,
- (c) The amount of the Funding, and
- (d) The title, a brief description and images of any project benefiting from the Funding.

8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded,
- (b) Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* in any publicity provisions of any kind (including any brochures, signage, advertising and invitations), and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:
 - (a) comply with all applicable standards, laws, regulations policies and statements,
 - (b) not do anything that would cause OLG to breach its obligations under any legislation, and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:
 - (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG, and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 Delivery of Reports and Return of Confidential Information:

Council must provide to OLG:

(a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG, and

(b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 3.

(c) The Project Funding period will end upon the submission of an Acquittal Certificate acceptable to OLG.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

(a) in writing, directed to the representative of the other party, and

(b) be forwarded to the address, facsimile number or the email address of that representative,

(c) if to OLG sent to the address set out on the front page of this agreement,

(d) if to the Council to the address as set out in Item 1 of Attachment 1.

- 13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:
- (a) in the case of delivery in person – when delivered to the recipient's address for service and a signature received as evidence of delivery,
 - (b) in the case of delivery by post – within three (3) Business Days of posting,
 - (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, or
 - (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.
- 13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.
- 13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.
- 13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.
- 13.8 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties,
 - (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

EXECUTED AS A DEED by OLG on 23 August 2018.

Executed by OLG by the Chief Executive) TIM HURST
of the Office of Local Government for and)
on behalf of the Crown in right of New) (Chief Executive)
South Wales but not so as to incur any)
personal liability:)

in the presence of:) (signature)
)
Melissa Opdam)

(Witness name)
)
)
)
(Signature))
)
)
)
)
)
)
)
)
)

ATTACHMENT 1

GRANT APPLICATION FORM

This attachment forms part of the Funding Agreement

between OLG and City of Canada Bay Council

Item 1 Council Details

Council: Mr Peter Gainsford
General Manager
City of Canada Bay Council
Locked Bag 1470
DRUMMOYNE NSW 1470

Item 2 Approved Project(s)

Project – Stronger Communities Fund	Allocation (\$'000)
Majors Bay Reserve, Concord – synthetic soccer pitch and all weather surface	2,300
Goddard Park, Concord – upgrade to the amenities block	70
	2,370

Item 3 Funding Period

End date: 30 June 2020

Item 4 Grant Funding

Funding Sought:

Stronger Communities Funding: \$2,370,000

Total Amount of Grant Funding sought: \$2,370,000

Item 5 Publicity

Additional terms:

Council must ensure that the following wording appears on all Funding Project Materials:

- (a) "Funded by NSW Government through the Stronger Communities Fund", or where applicable
- (b) "Funded by NSW Government through the New Council Implementation Fund".

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement, and
- (b) workers' compensation insurance in accordance with applicable legislation in respect of all of Council employees.

EXECUTED AS A DEED by Council on 3RD AUGUST 2018.

Signed on behalf of the Council by its)
 General Manager Pursuant to Authority)
 Delegated by the Council)

In the presence of:)

DIANNE FOSTER)

(Name of Witness)

PETER GAINSFORD

(Name of ~~Local~~ General Manager)

(signature of Witness)

(signature)

ATTACHMENT 2

Stronger Communities Fund – Tied Grant Round Guidelines

1. Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

3. Available funding

Stronger Communities tied grants will be provided to new councils created in 2016 and councils previously subject to a merger proposal. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

4. How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

5. Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

6. Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community, and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

7. What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems,

- financial management systems or change management programs,
- costs associated with the preparation for or legal challenges to merger proposals,
- upgrading of council's administration buildings, or
- ongoing staff or operational costs.

8. Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2019 and all funding acquitted before 30 June 2020. Timeframes for any future funding rounds will be as determined within the Funding Agreement.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By December 2018, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

9. Acknowledgement

The funding agreement will specify that funding is conditional on agreement to the Funding Acknowledgment Guidelines for Recipients of NSW Government Grants which can be found at <https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

In particular, each Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.

- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations).
- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

10. Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2019 and fully acquitted by 30 June 2020. Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

11. Contacts

Council's Office of Local Government Council Engagement Manager is available to provide advice on the Stronger Communities Fund.

ATTACHMENT 3

Acquittal Certificate

CERTIFICATION STATEMENT BY GRANT RECIPIENT

Certification by the General Manager of the grant recipient council

I, [insert name and position]

Solemnly and sincerely declare: [DELETE 1 OR 2 AS APPLICABLE]

1. An amount equal to the total Grant paid \$[insert amount] **has been expended** on the Project in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the Office of Local Government (OLG).

OR

2. The total Grant of \$[insert amount] has not been expended. An amount of \$[insert amount] has not been expended and – [DELETE (a) OR (b) AS APPLICABLE]

(a) a cheque for this amount made payable to the OLG is attached.

OR

(b) An electronic funds transfer for this amount has been transferred into the bank account of OLG.

All funds were expended in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the OLG;

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: on
[place] [date]

.....
[signature of declarant]

in the presence of an authorised witness, who states:

I, a
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document and the document I relied on was

.....
[describe identification document relied on]

.....
[signature of authorised witness]

.....
[date]



STRONGER COMMUNITIES FUND

FUNDING AGREEMENT

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- In September 2017 the NSW Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.
- The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

1.1 **Funding Request:** In consideration for the submission of the completed Grant Application Form being Attachment 1, Council agrees to accept and apply the funds provided by OLG (the Funding) in accordance with and subject to the terms of this Agreement.

1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the:

- (a) Stronger Communities Fund Grants Guidelines (Attachment 2), and
- (b) Funding Acknowledgment Guidelines for Recipients of NSW Government Grants (which can be found at):
<https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

all as amended from time to time (the relevant Guidelines).

2. Payment

- 2.1 **Payment:** Subject to this Agreement, OLG shall pay the Grant Funds to Council upon receipt of the Grant Form duly executed by the Council.
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.
- 2.4 **Default:** OLG will not be in default of its obligation to pay the Funding if it is paid within 30 days of OLG receiving all necessary requirements from the Council.

3. GST:

- 3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.
- 3.2 **What happens if GST is imposed: If:**
- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement, and
 - (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

- 3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.
- 3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (GST).
- 3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (GST) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 Use of Funding: Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines,
- (b) only use the Funding within the Funding Period,
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines, and
- (d) fully acquit the funding by 30 June 2020.

4.2 Unspent Funding:

- (a) Any unspent or uncommitted funds held by Council at 31 December 2019 must be returned to OLG by 31 March 2020,
- (b) Council may request to extend this timeframe, and
- (c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 Bank account: Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 Interest: The Funding must be paid into an interest earning account and

- (a) unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.
- (b) the Funding is to be accounted for separately and funds should be reported as an internally restricted asset within Councils financial statements.

5. Expenditure of the Funding

5.1 Expenditure of Funding: Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form,
- (b) the relevant Guidelines,
- (c) information provided to OLG through the notification process defined in the relevant Guidelines, and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

- 5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:
- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them,
 - (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement, and
 - (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.
- 5.3 Any funding shortfall or funding for ongoing operational activity will be funded by the Council.

6. **Accountability**

6.1 **Records:** Council must:

- (a) ensure that adequate operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding,
 - (b) ensure that Council keep financial records concerning the expenditure of Grant funding, in accordance with section 412(1) of the *Local Government Act 1993*,
 - (c) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.
- 6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.
- 6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.
- 6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.
- 6.5 Nothing in this Agreement prevents the Minister for Local Government or the Chief Executive of OLG from exercising powers available to them under the *Local Government Act 1993*.

7. Reports

Required reports Council will submit to OLG the Reports within the timeframe stipulated by the Guidelines, and any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

These include, but are not limited to:

- a) By 31 January 2019, council's plan for the delivery of all projects the subject of the funding (the Delivery Plan). The Delivery Plan is to include information on governance arrangements, costings, timeframes and expected benefits.
- b) Council is to table progress reports at least quarterly to an ordinary council meeting. The progress report is to include the expenditure and outcomes achieved against the Delivery Plan. This reporting is to continue until the conclusion of the project.
- c) Council must provide a six monthly report each year by the 31 August and 28 February, to the OLG on the delivery progress and expenditure of the Funding.
- d) A final report is to be submitted upon the completion of each project the subject of the Funding. The final report is to include photographs and details of the benefits and outcomes achieved as well as a report against the Delivery Plan.

8. Publicity

8.1 **Acknowledgement:** Council will ensure that all public statements relating to any project the subject of the Funding will acknowledge the provision of the Funding by the NSW Government and that it will incorporate the terms set out in Item 5 of Attachment 1.

8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:

- (a) The Council name,
- (b) The name of any End Recipient,
- (c) The amount of the Funding, and
- (d) The title, a brief description and images of any project benefiting from the Funding.

8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded,
- (b) Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* in any publicity provisions of any kind (including any brochures, signage, advertising and invitations), and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:
 - (a) comply with all applicable standards, laws, regulations policies and statements,
 - (b) not do anything that would cause OLG to breach its obligations under any legislation, and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:
 - (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG, and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 Delivery of Reports and Return of Confidential Information:

Council must provide to OLG:

- (a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG, and
- (b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 3.
- (c) The Project Funding period will end upon the submission of an Acquittal Certificate acceptable to OLG.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

- (a) in writing, directed to the representative of the other party, and
- (b) be forwarded to the address, facsimile number or the email address of that representative,
- (c) if to OLG sent to the address set out on the front page of this agreement,
- (d) if to the Council to the address as set out in Item 1 of Attachment 1.

- 13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:
- (a) in the case of delivery in person – when delivered to the recipient’s address for service and a signature received as evidence of delivery,
 - (b) in the case of delivery by post – within three (3) Business Days of posting,
 - (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, or
 - (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.
- 13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.
- 13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.
- 13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.
- 13.8 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties,
 - (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

EXECUTED AS A DEED by OLG on 14 February 2018.9
TH

Executed by OLG by the Chief Executive) TIM HURST
of the Office of Local Government for and)
on behalf of the Crown in right of New)
South Wales but not so as to incur any)
personal liability:)

in the presence of:) (signature)

Lindsay Ewens)

(Witness name)

.....)

(Signature))

ATTACHMENT 1

GRANT APPLICATION FORM

This attachment forms part of the Funding Agreement

between OLG and Central Coast Council

Item 1 Council Details

Council: Mr Brian Glendenning
Acting General Manager
Central Coast Council
PO Box 20
WYONG NSW 2259

Item 2 Approved Project(s)

Project – Stronger Communities Fund	Allocation (\$'000)
Greenfield Road upgrade at Empire Bay	1,800
Avoca Beach Rugby Club change room upgrade	175
Erina Archery Club canteen	31
Regional Development Australia: Central Coast Annual Funding	120
	2,126

Item 3 Funding Period

End date: 30 June 2020

Item 4 Grant Funding

Funding Sought:

Stronger Communities Funding: \$2,126,000

Total Amount of Grant Funding sought: \$2,126,000

Item 5 Publicity

Additional terms:

Council must ensure that the following wording appears on all Funding Project Materials:

- (a) "Funded by NSW Government through the Stronger Communities Fund", or where applicable
- (b) "Funded by NSW Government through the New Council Implementation Fund".

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement, and
- (b) workers' compensation insurance in accordance with applicable legislation in respect of all of Council employees.

EXECUTED AS A DEED by Council on 15/1/19 2018.

Signed on behalf of the Council by its)
General Manager Pursuant to Authority)
Delegated by the Council)

In the presence of:)

Hayley Smith)
(Name of Witness))

GARY MURPHY)
(Name of Interim/General Manager))

(signature of Witness))

.....)
(signature)

ATTACHMENT 2

Stronger Communities Fund – Tied Grant Round Guidelines

1. Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

3. Available funding

Stronger Communities tied grants will be provided to new councils created in 2016 and councils previously subject to a merger proposal. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

4. How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

5. Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

6. Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community, and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

7. What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems,

- financial management systems or change management programs,
- costs associated with the preparation for or legal challenges to merger proposals,
- upgrading of council's administration buildings, or
- ongoing staff or operational costs.

8. Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2019 and all funding acquitted before 30 June 2020. Timeframes for any future funding rounds will be as determined within the Funding Agreement.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By December 2018, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

9. Acknowledgement

The funding agreement will specify that funding is conditional on agreement to the Funding Acknowledgment Guidelines for Recipients of NSW Government Grants which can be found at <https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

In particular, each Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.

- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations).
- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

10. Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2019 and fully acquitted by 30 June 2020. Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

11. Contacts

Council's Office of Local Government Council Engagement Manager is available to provide advice on the Stronger Communities Fund.



STRONGER COMMUNITIES FUND

FUNDING AGREEMENT

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- In September 2017 the NSW Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.
- The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

1.1 **Funding Request:** In consideration for the submission of the completed Grant Application Form being Attachment 1, Council agrees to accept and apply the funds provided by OLG (the Funding) in accordance with and subject to the terms of this Agreement.

1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the:

- (a) Stronger Communities Fund Grants Guidelines (Attachment 2), and
- (b) Funding Acknowledgment Guidelines for Recipients of NSW Government Grants (which can be found at):
<https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

all as amended from time to time (the relevant Guidelines).

2. Payment

- 2.1 **Payment:** Subject to this Agreement, OLG shall pay the Grant Funds to Council upon receipt of the Grant Form duly executed by the Council.
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.
- 2.4 **Default:** OLG will not be in default of its obligation to pay the Funding if it is paid within 30 days of OLG receiving all necessary requirements from the Council.

3. GST:

- 3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.
- 3.2 **What happens if GST is imposed: If:**
- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement, and
 - (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

- 3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.
- 3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (**GST**).
- 3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (**GST**) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 Use of Funding: Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines,
- (b) only use the Funding within the Funding Period,
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines, and
- (d) fully acquit the funding by 30 June 2020.

4.2 Unspent Funding:

- (a) Any unspent or uncommitted funds held by Council at 31 December 2019 must be returned to OLG by 31 March 2020,
- (b) Council may request to extend this timeframe, and
- (c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 Bank account: Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 Interest: The Funding must be paid into an interest earning account and

- (a) unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.
- (b) the Funding is to be accounted for separately and funds should be reported as an internally restricted asset within Councils financial statements.

5. Expenditure of the Funding

5.1 Expenditure of Funding: Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form,
- (b) the relevant Guidelines,
- (c) information provided to OLG through the notification process defined in the relevant Guidelines, and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:

- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them,
- (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement, and
- (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.

5.3 Any funding shortfall or funding for ongoing operational activity will be funded by the Council.

6. **Accountability**

6.1 **Records:** Council must:

- (a) ensure that adequate operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding,
- (b) ensure that Council keep financial records concerning the expenditure of Grant funding, in accordance with section 412(1) of the *Local Government Act 1993*,
- (c) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.

6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.

6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.

6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.

6.5 Nothing in this Agreement prevents the Minister for Local Government or the Chief Executive of OLG from exercising powers available to them under the *Local Government Act 1993*.

7. Reports

Required reports Council will submit to OLG the Reports within the timeframe stipulated by the Guidelines, and any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

These include, but are not limited to:

- a) By 22 December 2018, council's plan for the delivery of all projects the subject of the funding (the Delivery Plan). The Delivery Plan is to include information on governance arrangements, costings, timeframes and expected benefits.
- b) Council is to table progress reports at least quarterly to an ordinary council meeting. The progress report is to include the expenditure and outcomes achieved against the Delivery Plan. This reporting is to continue until the conclusion of the project.
- c) Council must provide a six monthly report each year by the 31 August and 28 February, to the OLG on the delivery progress and expenditure of the Funding.
- d) A final report is to be submitted upon the completion of each project the subject of the Funding. The final report is to include photographs and details of the benefits and outcomes achieved as well as a report against the Delivery Plan.

8. Publicity

8.1 **Acknowledgement:** Council will ensure that all public statements relating to any project the subject of the Funding will acknowledge the provision of the Funding by the NSW Government and that it will incorporate the terms set out in Item 5 of Attachment 1.

8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:

- (a) The Council name,
- (b) The name of any End Recipient,
- (c) The amount of the Funding, and
- (d) The title, a brief description and images of any project benefiting from the Funding.

8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded,
- (b) Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* in any publicity provisions of any kind (including any brochures, signage, advertising and invitations), and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:
 - (a) comply with all applicable standards, laws, regulations policies and statements,
 - (b) not do anything that would cause OLG to breach its obligations under any legislation, and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:
 - (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG, and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 Delivery of Reports and Return of Confidential Information:

Council must provide to OLG:

- (a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG, and
- (b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 3.
- (c) The Project Funding period will end upon the submission of an Acquittal Certificate acceptable to OLG.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

- (a) in writing, directed to the representative of the other party, and
- (b) be forwarded to the address, facsimile number or the email address of that representative,
- (c) if to OLG sent to the address set out on the front page of this agreement,
- (d) if to the Council to the address as set out in Item 1 of Attachment 1.

- 13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:
- (a) in the case of delivery in person – when delivered to the recipient’s address for service and a signature received as evidence of delivery,
 - (b) in the case of delivery by post – within three (3) Business Days of posting,
 - (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, or
 - (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.
- 13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.
- 13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.
- 13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.
- 13.8 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties,
 - (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

EXECUTED AS A DEED by OLG on 14 February 2018: ^a
TM

Executed by OLG by the Chief Executive) TIM HURST.....
of the Office of Local Government for and) (Chief Executive)
on behalf of the Crown in right of New)
South Wales but not so as to incur any)
personal liability:)

in the presence of:) (signature)

Lindsay Ewens)

(Witness name)

.....)

(Signature))

ATTACHMENT 1

GRANT APPLICATION FORM

This attachment forms part of the Funding Agreement

between OLG and Central Coast Council

Item 1 Council Details

Council: Mr Gary Murphy
General Manager
Central Coast Council
PO Box 20
WYONG NSW 2259

Item 2 Approved Project(s)

Project – Stronger Communities Fund	Allocation
Hylton Moore Park floodlighting for Central Coast Baseball	234,450
Avoca Kayak Club clubhouse/community facility	300,000
Macmasters Beach public toilets and change room reconstruction	260,000
Mingara Regional Athletics Track resurfacing	425,000
Copacabana Surf Life Saving Club minor facilities improvements and equipment	34,000
Terrigal Surf Life Saving Club public amenities upgrade	240,000
Wamberal Surf Club deck and storage area extension	177,000
Davistown Progress Association car park remediation for drainage	65,000
Chertseydale Community Cottage upgrade, Springfield	183,000
	1,918,450

Item 3 Funding Period

End date: 30 June 2020

Item 4 Grant Funding

Funding Sought:

Stronger Communities Funding: \$1,918,450

Total Amount of Grant Funding sought: \$1,918,450

Item 5 Publicity

Additional terms:

Council must ensure that the following wording appears on all Funding Project Materials:

- (a) "Funded by NSW Government through the Stronger Communities Fund", or where applicable

- (b) "Funded by NSW Government through the New Council Implementation Fund".

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement, and
- (b) workers' compensation insurance in accordance with applicable legislation in respect of all of Council employees.

EXECUTED AS A DEED by Council on 15/1/19 2018.

Signed on behalf of the Council by its)
General Manager Pursuant to Authority)
Delegated by the Council)

In the presence of:)

Hayley Smith)
.....)
(Name of Witness))

GARY MURPHY)
.....)
(Name of Interim/General Manager))

.....)
(signature of Witness))

.....)
(signature))

ATTACHMENT 2

Stronger Communities Fund – Tied Grant Round Guidelines

1. Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

3. Available funding

Stronger Communities tied grants will be provided to new councils created in 2016 and councils previously subject to a merger proposal. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

4. How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

5. Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

6. Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community, and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

7. What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems,

- financial management systems or change management programs,
- costs associated with the preparation for or legal challenges to merger proposals,
- upgrading of council's administration buildings, or
- ongoing staff or operational costs.

8. Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2019 and all funding acquitted before 30 June 2020. Timeframes for any future funding rounds will be as determined within the Funding Agreement.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By **December 2018**, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

9. Acknowledgement

The funding agreement will specify that funding is conditional on agreement to the Funding Acknowledgment Guidelines for Recipients of NSW Government Grants which can be found at <https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

In particular, each Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.

- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations).
- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

10. Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2019 and fully acquitted by 30 June 2020. Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

11. Contacts

Council's Office of Local Government Council Engagement Manager is available to provide advice on the Stronger Communities Fund.



STRONGER COMMUNITIES FUND FUNDING AGREEMENT

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- In September 2017 the NSW Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.
- The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

- 1.1 **Funding Request:** In consideration for the submission of the completed Grant Application Form being Attachment 1, Council agrees to accept and apply the funds provided by OLG (the Funding) in accordance with and subject to the terms of this Agreement.
- 1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the:
 - (a) Stronger Communities Fund Grants Guidelines (Attachment 2), and
 - (b) Funding Acknowledgment Guidelines for Recipients of NSW Government Grants (which can be found at):
<https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

all as amended from time to time (the relevant Guidelines).

2. **Payment**

- 2.1 **Payment:** Subject to this Agreement, OLG shall pay the Grant Funds to Council upon receipt of the Grant Form duly executed by the Council.
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.
- 2.4 **Default:** OLG will not be in default of its obligation to pay the Funding if it is paid within 30 days of OLG receiving all necessary requirements from the Council.

3. **GST:**

- 3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.
- 3.2 **What happens if GST is imposed: If:**
- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement, and
 - (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

- 3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.
- 3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (**GST**).
- 3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (**GST**) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 Use of Funding: Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines,
- (b) only use the Funding within the Funding Period,
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines, and
- (d) fully acquit the funding by 30 June 2020.

4.2 Unspent Funding:

- (a) Any unspent or uncommitted funds held by Council at 31 December 2019 must be returned to OLG by 31 March 2020,
- (b) Council may request to extend this timeframe, and
- (c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 Bank account: Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 Interest: The Funding must be paid into an interest earning account and

- (a) unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.
- (b) the Funding is to be accounted for separately and funds should be reported as an internally restricted asset within Councils financial statements.

5. Expenditure of the Funding

5.1 Expenditure of Funding: Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form,
- (b) the relevant Guidelines,
- (c) information provided to OLG through the notification process defined in the relevant Guidelines, and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

- 5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:
- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them,
 - (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement, and
 - (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.
- 5.3 Any funding shortfall or funding for ongoing operational activity will be funded by the Council.

6. **Accountability**

- 6.1 **Records:** Council must:
- (a) ensure that adequate operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding,
 - (b) ensure that Council keep financial records concerning the expenditure of Grant funding, in accordance with section 412(1) of the *Local Government Act 1993*,
 - (c) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.
- 6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.
- 6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.
- 6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.
- 6.5 Nothing in this Agreement prevents the Minister for Local Government or the Chief Executive of OLG from exercising powers available to them under the *Local Government Act 1993*.

7. Reports

Required reports Council will submit to OLG the Reports within the timeframe stipulated by the Guidelines, and any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

These include, but are not limited to:

- a) By 30 April 2019, council's plan for the delivery of all projects the subject of the funding (the Delivery Plan). The Delivery Plan is to include information on governance arrangements, costings, timeframes and expected benefits.
- b) Council is to table progress reports at least quarterly to an ordinary council meeting. The progress report is to include the expenditure and outcomes achieved against the Delivery Plan. This reporting is to continue until the conclusion of the project.
- c) Council must provide a six monthly report each year by the 31 August and 28 February, to the OLG on the delivery progress and expenditure of the Funding.
- d) A final report is to be submitted upon the completion of each project the subject of the Funding. The final report is to include photographs and details of the benefits and outcomes achieved as well as a report against the Delivery Plan.

8. Publicity

- 8.1 **Acknowledgement:** Council will ensure that all public statements relating to any project the subject of the Funding will acknowledge the provision of the Funding by the NSW Government and that it will incorporate the terms set out in Item 5 of Attachment 1.
- 8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:
 - (a) The Council name,
 - (b) The name of any End Recipient,
 - (c) The amount of the Funding, and
 - (d) The title, a brief description and images of any project benefiting from the Funding.
- 8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded,
- (b) Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* in any publicity provisions of any kind (including any brochures, signage, advertising and invitations), and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:
 - (a) comply with all applicable standards, laws, regulations policies and statements,
 - (b) not do anything that would cause OLG to breach its obligations under any legislation, and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:
 - (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG, and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 Delivery of Reports and Return of Confidential Information:

Council must provide to OLG:

- (a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG, and
- (b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 3.
- (c) The Project Funding period will end upon the submission of an Acquittal Certificate acceptable to OLG.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

- (a) in writing, directed to the representative of the other party, and
- (b) be forwarded to the address, facsimile number or the email address of that representative,
- (c) if to OLG sent to the address set out on the front page of this agreement,
- (d) if to the Council to the address as set out in Item 1 of Attachment 1.

- 13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:
- (a) in the case of delivery in person – when delivered to the recipient's address for service and a signature received as evidence of delivery,
 - (b) in the case of delivery by post – within three (3) Business Days of posting,
 - (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, or
 - (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.
- 13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.
- 13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.
- 13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.
- 13.8 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties,
 - (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

ATTACHMENT 1

GRANT APPLICATION FORM

This attachment forms part of the Funding Agreement

between OLG and Central Coast Council

Item 1 Council Details

Council: Mr Gary Murphy
General Manager
Central Coast Council
PO Box 20
WYONG NSW 2259

Item 2 Approved Project(s)

Project – Stronger Communities Fund	Allocation (\$'000)
Ex-HMAS Adelaide mast installation	66,000
Terrigal Rugby clubhouse refurbishment and roof replacement	227,000
Gosford Musical Society acquisition of multipurpose building	200,000
Water fountain Duffys Oval, Terrigal	10,000
Water fountain Frost Reserve, Kincumber	10,000
Flooring improvements Terrigal 50 Plus Leisure and Learning Centre	9,570
Management of salvinia molesta at Springfield Pond	125,000
Playspace upgrade Empire Bay	150,000
Public toilet upgrade Forresters Beach	203,500
Archibold Park upgrade Forresters Beach	150,000
Clubhouse upgrade Duffys Oval Terrigal	250,000
Kincumber Neighbourhood Centre equipment, facilities improvements	55,000
	1,456,070

Item 3 Funding Period

End date: 30 June 2020

Item 4 Grant Funding**Funding Sought:**

Stronger Communities Funding: \$1,456,070

Total Amount of Grant Funding sought: \$1,456,070

Item 5 Publicity

Additional terms:

Council must ensure that the following wording appears on all Funding Project Materials:

- (a) "Funded by NSW Government through the Stronger Communities Fund", or where applicable
- (b) "Funded by NSW Government through the New Council Implementation Fund".

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement, and
- (b) workers' compensation insurance in accordance with applicable legislation in respect of all of Council employees.

EXECUTED AS A DEED by Council on 28 February 2019.

Signed on behalf of the Council by its
General Manager Pursuant to Authority
Delegated by the Council

In the presence of:

Felicity Rivers
.....
(Name of Witness)

Boris Belgoff Acting CEO
.....
(Name of Interim/General Manager)

.....
(signature)

ATTACHMENT 2

Stronger Communities Fund – Tied Grant Round Guidelines

1. Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

3. Available funding

Stronger Communities tied grants will be provided to new councils created in 2016 and councils previously subject to a merger proposal. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

4. How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

5. Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

6. Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community, and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

7. What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems,

- financial management systems or change management programs,
- costs associated with the preparation for or legal challenges to merger proposals,
- upgrading of council's administration buildings, or
- ongoing staff or operational costs.

8. Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2019 and all funding acquitted before 30 June 2020. Timeframes for any future funding rounds will be as determined within the Funding Agreement.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By December 2018, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

9. Acknowledgement

The funding agreement will specify that funding is conditional on agreement to the Funding Acknowledgment Guidelines for Recipients of NSW Government Grants which can be found at <https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

In particular, each Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.

- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations).
- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

10. Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2019 and fully acquitted by 30 June 2020. Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

11. Contacts

Council's Office of Local Government Council Engagement Manager is available to provide advice on the Stronger Communities Fund.

ATTACHMENT 3

Acquittal Certificate

CERTIFICATION STATEMENT BY GRANT RECIPIENT

Certification by the General Manager of the grant recipient council

I, [insert name and position]

Solemnly and sincerely declare: [DELETE 1 OR 2 AS APPLICABLE]

1. An amount equal to the total Grant paid \$[insert amount] has been expended on the Project in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the Office of Local Government (OLG).

OR

2. The total Grant of \$[insert amount] has not been expended. An amount of \$[insert amount] has not been expended and – [DELETE (a) OR (b) AS APPLICABLE]

(a) a cheque for this amount made payable to the OLG is attached.

OR

(b) An electronic funds transfer for this amount has been transferred into the bank account of OLG.

All funds were expended in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the OLG;

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: on
[place] [date]

.....
[signature of declarant]

in the presence of an authorised witness, who states:

I, a
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document and the document I relied on was

.....
[describe identification document relied on]

..... [signature of authorised witness] [date]



Office of
Local Government



NEW COUNCIL IMPLEMENTATION FUND AND STRONGER COMMUNITIES FUND

FUNDING AGREEMENT

DOCUMENT ID: A618731

SCANNED TO OBJ: checked as OK

HARD COPY TO BE FILED: Yes / No

FILE No.: _____

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- In September 2017 the NSW Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.
- The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

- 1.1 **Funding Request:** In consideration for the submission of the completed Grant Application Form being Attachment 1, Council agrees to accept and apply the funds provided by OLG (the Funding) in accordance with and subject to the terms of this Agreement.
- 1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the:
- (a) Stronger Communities Fund Grants Guidelines (Attachment 2),
 - (b) New Council Implementation Fund Grants Guidelines (Attachment 3), and
 - (c) Funding Acknowledgment Guidelines for Recipients of NSW Government Grants (which can be found at):
<https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

all as amended from time to time (the relevant Guidelines).

2. Payment

- 2.1 **Payment:** Subject to this Agreement, OLG shall pay the Grant Funds to Council upon receipt of the Grant Form duly executed by the Council.
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.
- 2.4 **Default:** OLG will not be in default of its obligation to pay the Funding if it is paid within 30 days of OLG receiving all necessary requirements from the Council.

3. GST:

- 3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.
- 3.2 **What happens if GST is imposed: If:**
- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement, and
 - (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

- 3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.
- 3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (GST).
- 3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (GST) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 Use of Funding: Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines,
- (b) only use the Funding within the Funding Period,
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines, and
- (d) fully acquit the funding by 30 June 2020.

4.2 Unspent Funding:

- (a) Any unspent or uncommitted funds held by Council at 31 December 2019 must be returned to OLG by 31 March 2020,
- (b) Council may request to extend this timeframe, and
- (c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 Bank account: Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 Interest: The Funding must be paid into an interest earning account and

- (a) unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.
- (b) the Funding is to be accounted for separately and funds should be reported as an internally restricted asset within Councils financial statements.

5. Expenditure of the Funding

5.1 Expenditure of Funding: Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form,
- (b) the relevant Guidelines,
- (c) information provided to OLG through the notification process defined in the relevant Guidelines, and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

- 5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:
- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them,
 - (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement, and
 - (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.
- 5.3 Any funding shortfall or funding for ongoing operational activity will be funded by the Council.

6. **Accountability**

- 6.1 **Records:** Council must:
- (a) ensure that adequate operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding,
 - (b) ensure that Council keep financial records concerning the expenditure of Grant funding, in accordance with section 412(1) of the *Local Government Act 1993*,
 - (c) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.
- 6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.
- 6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.
- 6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.
- 6.5 Nothing in this Agreement prevents the Minister for Local Government or the Chief Executive of OLG from exercising powers available to them under the *Local Government Act 1993*.

7. Reports

Required reports Council will submit to OLG the Reports within the timeframe stipulated by the Guidelines, and any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

These include, but are not limited to:

- a) By 22 December 2018, council's plan for the delivery of all projects the subject of the funding (the Delivery Plan). The Delivery Plan is to include information on governance arrangements, costings, timeframes and expected benefits.
- b) Council is to table progress reports at least quarterly to an ordinary council meeting. The progress report is to include the expenditure and outcomes achieved against the Delivery Plan. This reporting is to continue until the conclusion of the project.
- c) Council must provide a six monthly report each year by the 31 August and 28 February, to the OLG on the delivery progress and expenditure of the Funding.
- d) A final report is to be submitted upon the completion of each project the subject of the Funding. The final report is to include photographs and details of the benefits and outcomes achieved as well as a report against the Delivery Plan.

8. Publicity

8.1 **Acknowledgement:** Council will ensure that all public statements relating to any project the subject of the Funding will acknowledge the provision of the Funding by the NSW Government and that it will incorporate the terms set out in Item 5 of Attachment 1.

8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:

- (a) The Council name,
- (b) The name of any End Recipient,
- (c) The amount of the Funding, and
- (d) The title, a brief description and images of any project benefiting from the Funding.

8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded,
- (b) Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* in any publicity provisions of any kind (including any brochures, signage, advertising and invitations), and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:
- (a) comply with all applicable standards, laws, regulations policies and statements,
 - (b) not do anything that would cause OLG to breach its obligations under any legislation, and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:
- (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG, and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 Delivery of Reports and Return of Confidential Information:

Council must provide to OLG:

- (a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG, and
- (b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 4.
- (c) The Project Funding period will end upon the submission of an Acquittal Certificate acceptable to OLG.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

- (a) in writing, directed to the representative of the other party, and
- (b) be forwarded to the address, facsimile number or the email address of that representative,
- (c) if to OLG sent to the address set out on the front page of this agreement,
- (d) if to the Council to the address as set out in Item 1 of Attachment 1.

- 13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:
- (a) in the case of delivery in person – when delivered to the recipient’s address for service and a signature received as evidence of delivery,
 - (b) in the case of delivery by post – within three (3) Business Days of posting,
 - (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, or
 - (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.
- 13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.
- 13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.
- 13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.
- 13.8 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties,
 - (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

ATTACHMENT 1

GRANT APPLICATION FORM

This attachment forms part of the Funding Agreement

between OLG and Cootamundra-Gundagai Regional Council

Item 1 Council Details

Council: Mr Allen Dwyer
General Manager
Cootamundra-Gundagai Regional Council
PO Box 420
COOTAMUNDRA NSW 2590

Item 2 Approved Project(s)

Project – New Council Implementation Fund	Allocation
Cootamundra-Gundagai Regional Council additional administration costs	1,914,282
	1,914,282
Project – Stronger Communities Fund	Allocation
Cootamundra Country Club – Upgrades to precinct including dam, machinery shed, course, upgrade to building façade.	1,355,000
Gundagai Preschool – Capital works projects to build additional rooms, providing more spaces.	510,000
Ellwood Hall (Stockinbingal) – General repairs and installation of heating and cooling.	60,000
Coolac Hall & Oval – Project includes relining hall, new kitchen, installation of cricket nets, picket fence, irrigation and seating.	200,000
Adjungbilly Hall – Upgrade tennis courts into multipurpose facility, install community BBQ.	130,000
Battle of the Bidgee – Installation of permanent storage sheds to support to event.	22,449
Cootamundra Rugby Union Club – New dressing room facilities and club room.	150,000
Cootamundra Arts Centre – Disabled access ramp.	3,142
Cootamundra Nursing Home – Installation of solar panels to help reduce costs.	53,227
Gundagai South Public School – Sensory garden.	60,000
Gundagai Public School P&C – Installation of soft fall for playground.	75,100
Gundagai Junior Rugby League – New PA system.	10,000
Town & Country Inc – Disabled toilet.	30,000
Gundagai Tourism Action Group (s355 Committee) – Gundagai Main Street History walk.	50,000

Gundagai RSL – Landscaping Anzac Grove, Gundagai.	25,000
Yarri Park Youth precinct/Lions Park – Basketball courts and new amenities.	130,000
Cootamundra Harness Racing – Upgrades and maintenance to track.	52,000
Cootamundra Mens Shed – Relocation of Mens Shed to Depot 2 on Hovell Street.	100,000
Cootamundra Netball Courts – 4 new netball courts to replace non-complying courts.	450,000
Mill Centre – Interactive Tourist Attraction.	200,000
Gundagai Sports Fields – River water pump	40,000
Gundagai Sportsground – Lighting	150,000
Tumblong Hall – Community facilities, multipurpose courts and BBQ area.	30,000
	3,885,918

Item 3 Funding Period

End date: 30 June 2020

Item 4 Grant Funding

Funding Sought:

New Council Innovation Funding: \$1,914,282
 Stronger Communities Funding: \$3,885,918

Total Amount of Grant Funding sought: \$5,800,200

Item 5 Publicity

Additional terms:

Council must ensure that the following wording appears on all Funding Project Materials:

- (a) “Funded by NSW Government through the Stronger Communities Fund”, or where applicable
 - (b) “Funded by NSW Government through the New Council Implementation Fund”.
-

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement, and
- (b) workers’ compensation insurance in accordance with applicable legislation in respect of all of Council employees.

ATTACHMENT 2

Stronger Communities Fund – Tied Grant Round Guidelines

1. Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

3. Available funding

Stronger Communities tied grants will be provided to new councils created in 2016 and councils previously subject to a merger proposal. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

4. How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

5. Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

6. Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community, and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

7. What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems,

- financial management systems or change management programs,
- costs associated with the preparation for or legal challenges to merger proposals,
- upgrading of council's administration buildings, or
- ongoing staff or operational costs.

8. Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2019 and all funding acquitted before 30 June 2020. Timeframes for any future funding rounds will be as determined within the Funding Agreement.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By December 2018, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

9. Acknowledgement

The funding agreement will specify that funding is conditional on agreement to the Funding Acknowledgment Guidelines for Recipients of NSW Government Grants which can be found at <https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

In particular, each Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.

- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations).
- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

10. Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2019 and fully acquitted by 30 June 2020. Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

11. Contacts

Council's Office of Local Government Council Engagement Manager is available to provide advice on the Stronger Communities Fund.

ATTACHMENT 3

New Council Implementation Fund Grants Guidelines

1. Purpose of the Fund

The NSW Government has created a number of new councils across the State. The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.

Each new council will be provided with up to \$10 million following their commencement.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their responsibilities in relation to the New Council Implementation Fund.

Councils are responsible for making decisions on the allocation of funds to specific activities, consistent with these Guidelines.

New Council Implementation funding will be provided to new councils created as part of the NSW Government's reform program.

Initial funding of \$10 million is provided to a new council formed in metropolitan Sydney or the Central Coast. Initial funding of \$5 million is provided to a new council formed in regional NSW.

The NSW Government can also allocate additional funding on an as-needed basis.

3. How the New Council Implementation Fund can be spent?

The New Council Implementation Fund will assist councils to cover the up-front costs of implementing the new council. These costs will vary from council to council and it will be up to each council to identify and prioritise the activities for funding.

The following are examples of activities eligible for funding from the New Council Implementation Fund:

- the provision of expert implementation advice, either from a panel of providers established by DPC, or procured locally
- enhancing or integrating systems to support the operation of the new council
- redundancy payments for staff
- signage for the new council
- development and release of the website for the new council
- change management programs to support implementation.

The New Council Implementation Fund has not been designed to cover the costs of major upgrades to information technology systems. Councils are able to spend the fund on major upgrades if that is prioritised over other implementation costs.

4. Process for selecting activities for funding

As a part of the NSW Government's implementation support program, new councils developed an implementation plan to guide the establishment of the new council.

Projects or activities funded from the New Council Implementation Fund should be consistent with the implementation plan.

5. What are ineligible activities?

The New Council Implementation Fund is not to be used for:

- merger costs incurred prior to the commencement of the new council
- existing or ongoing staff costs
- upgrades to the council's administrative buildings.

6. Accountability, acquittal of funds and timeframes

Councils will be responsible for the effective governance of the New Council Implementation Fund and will be required to establish a project management framework that supports the prioritisation and delivery of projects funded.

Councils are accountable for the expenditure of the New Council Implementation Fund in accordance with these guidelines, which require the following:

- The Office of Local Government (OLG) will prepare a funding agreement to provide New Council Implementation funds to councils following their commencement.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By 31 December 2018, councils are to notify the OLG of their plan for allocating the New Council Implementation Fund. Notification is to include information on council's governance arrangements and the projects or activities funded, including key milestones, expected or delivered benefits and a budget.
- Councils are to advise the OLG of any changes to this plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure of the New Council Implementation Fund, until the funds are spent.
- Councils must provide six monthly reports each year by 31 July and 31 January, to the OLG on delivery progress and expenditure.
- A final report is to be submitted once the funds have been spent, including a description of the benefits achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The New Council Implementation Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

7. Contacts

Council's Council Engagement Manager can provide advice on the New Council Implementation Fund.



STRONGER COMMUNITIES FUND FUNDING AGREEMENT

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- In September 2017 the NSW Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.
- The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

1.1 **Funding Request:** In consideration for the submission of the completed Grant Application Form being Attachment 1, Council agrees to accept and apply the funds provided by OLG (the Funding) in accordance with and subject to the terms of this Agreement.

1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the:

- (a) Stronger Communities Fund Grants Guidelines (Attachment 2),
- (b) Funding Acknowledgment Guidelines for Recipients of NSW Government Grants (which can be found at):
<https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

all as amended from time to time (the relevant Guidelines).

2. Payment

- 2.1 **Payment:** Subject to this Agreement, OLG shall pay the Grant Funds to Council upon receipt of the Grant Form duly executed by the Council.
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.
- 2.4 **Default:** OLG will not be in default of its obligation to pay the Funding if it is paid within 30 days of OLG receiving all necessary requirements from the Council.

3. GST:

- 3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.
- 3.2 **What happens if GST is imposed:** If:
- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement, and
 - (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

- 3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.
- 3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (GST).
- 3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (GST) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 Use of Funding: Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines,
- (b) only use the Funding within the Funding Period,
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines, and
- (d) fully acquit the funding by 30 June 2020.

4.2 Unspent Funding:

- (a) Any unspent or uncommitted funds held by Council at 31 December 2019 must be returned to OLG by 31 March 2020,
- (b) Council may request to extend this timeframe, and
- (c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 Bank account: Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 Interest: The Funding must be paid into an interest earning account and

- (a) unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.
- (b) the Funding is to be accounted for separately and funds should be reported as an internally restricted asset within Councils financial statements.

5. Expenditure of the Funding

5.1 Expenditure of Funding: Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form,
- (b) the relevant Guidelines,
- (c) information provided to OLG through the notification process defined in the relevant Guidelines, and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

- 5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:
- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them,
 - (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement, and
 - (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.
- 5.3 Any funding shortfall or funding for ongoing operational activity will be funded by the Council

6. **Accountability**

- 6.1 **Records:** Council must:
- (a) ensure that adequate operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding,
 - (b) ensure that Council keep financial records concerning the expenditure of Grant funding, in accordance with section 412(1) of the *Local Government Act 1993*,
 - (c) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.
- 6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.
- 6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.
- 6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.
- 6.5 Nothing in this Agreement prevents the Minister for Local Government or the Chief Executive of OLG from exercising powers available to them under the *Local Government Act 1993*.

7. Reports

Required reports Council will submit to OLG the Reports within the timeframe stipulated by the Guidelines, and any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

These include, but are not limited to:

- a) By 31 July 2019, council's plan for the delivery of all projects the subject of the funding (the Delivery Plan). The Delivery Plan is to include information on governance arrangements, costings, timeframes and expected benefits.
- b) Council is to table progress reports at least quarterly to an ordinary council meeting. The progress report is to include the expenditure and outcomes achieved against the Delivery Plan. This reporting is to continue until the conclusion of the project.
- c) Council must provide a six monthly report each year by the 31 August and 28 February, to the OLG on the delivery progress and expenditure of the Funding.
- d) A final report is to be submitted upon the completion of each project the subject of the Funding. The final report is to include photographs and details of the benefits and outcomes achieved as well as a report against the Delivery Plan.

8. Publicity

8.1 **Acknowledgement:** Council will ensure that all public statements relating to any project the subject of the Funding will acknowledge the provision of the Funding by the NSW Government and that it will incorporate the terms set out in Item 5 of Attachment 1.

8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:

- (a) The Council name,
- (b) The name of any End Recipient,
- (c) The amount of the Funding, and
- (d) The title, a brief description and images of any project benefiting from the Funding.

8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded,
- (b) Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* in any publicity provisions of any kind (including any brochures, signage, advertising and invitations), and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:
 - (a) comply with all applicable standards, laws, regulations policies and statements,
 - (b) not do anything that would cause OLG to breach its obligations under any legislation, and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:
 - (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG, and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 Delivery of Reports and Return of Confidential Information:

Council must provide to OLG:

- (a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG, and
- (b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 3.
- (c) The Project Funding period will end upon the submission of an Acquittal Certificate acceptable to OLG.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

- (a) in writing, directed to the representative of the other party, and
- (b) be forwarded to the address, facsimile number or the email address of that representative,
- (c) if to OLG sent to the address set out on the front page of this agreement,
- (d) if to the Council to the address as set out in Item 1 of Attachment 1.

- 13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:
- (a) in the case of delivery in person – when delivered to the recipient's address for service and a signature received as evidence of delivery,
 - (b) in the case of delivery by post – within three (3) Business Days of posting,
 - (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, or
 - (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.
- 13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.
- 13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.
- 13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.
- 13.8 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties,
 - (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

ATTACHMENT 1

GRANT APPLICATION FORM

This attachment forms part of the Funding Agreement
between OLG and Cootamundra-Gundagai Regional Council

Item 1 Council Details

Council: Mr Phillip McMurray
Acting General Manager
Cootamundra-Gundagai Regional Council
PO Box 420
COOTAMUNDRA NSW 2590

Item 2 Approved Project(s)

Project – Stronger Communities Fund	Allocation (\$)
Youth Initiative	149,800
	149,800

Item 3 Funding Period

End date: 30 June 2020

Item 4 Grant Funding**Funding Sought:**

Stronger Communities Funding: \$149,800

Total Amount of Grant Funding sought: \$149,800

Item 5 Publicity**Additional terms:**

Council must ensure that the following wording appears on all Funding Project Materials:

- (a) "Funded by NSW Government through the Stronger Communities Fund", or where applicable
- (b) "Funded by NSW Government through the New Council Implementation Fund".

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement, and
- (b) workers' compensation insurance in accordance with applicable legislation in respect of all of Council employees.

EXECUTED AS A DEED by Council on 27-6-19 2019.

Signed on behalf of the Council by its)
 General Manager Pursuant to Authority)
 Delegated by the Council)

In the presence of:)

MYLVAGANAM GANGSAMOORTHY)
 (Name of Witness))

PHILIP MURRAY)
)

ATTACHMENT 2

Stronger Communities Fund – Tied Grant Round Guidelines

1. Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

3. Available funding

Stronger Communities tied grants will be provided to new councils created in 2016 and councils previously subject to a merger proposal. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

4. How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

5. Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

6. Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community, and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

7. What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems,

- financial management systems or change management programs,
- costs associated with the preparation for or legal challenges to merger proposals,
- upgrading of council's administration buildings, or
- ongoing staff or operational costs.

8. Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2019 and all funding acquitted before 30 June 2020. Timeframes for any future funding rounds will be as determined within the Funding Agreement.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By July 2019, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

9. Acknowledgement

The funding agreement will specify that funding is conditional on agreement to the Funding Acknowledgment Guidelines for Recipients of NSW Government Grants which can be found at <https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

In particular, each Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.

- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations).
- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

10. Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2019 and fully acquitted by 30 June 2020. Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

11. Contacts

Council's Office of Local Government Council Engagement Manager is available to provide advice on the Stronger Communities Fund.

ATTACHMENT 3

Acquittal Certificate

CERTIFICATION STATEMENT BY GRANT RECIPIENT

Certification by the General Manager of the grant recipient council

I, [insert name and position]

Solemnly and sincerely declare: [DELETE 1 OR 2 AS APPLICABLE]

1. An amount equal to the total Grant paid \$[insert amount] **has been expended** on the Project in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the Office of Local Government (OLG).

OR

2. The total Grant of \$[insert amount] has not been expended. An amount of \$[insert amount] has not been expended and – [DELETE (a) OR (b) AS APPLICABLE]

(a) a cheque for this amount made payable to the OLG is attached.

OR

(b) An electronic funds transfer for this amount has been transferred into the bank account of OLG.

All funds were expended in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the OLG;

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: on
[place] [date]

.....
[signature of declarant]

in the presence of an authorised witness, who states:

I, a
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [** please cross out any text that does not apply*]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document and the document I relied on was

.....
[describe identification document relied on]

.....
[signature of authorised witness]

.....
[date]



**STRONGER COMMUNITIES FUND
TIED GRANT ROUND
FUNDING AGREEMENT**

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- The purpose of the Funds is to provide new councils with the funding to kick start the delivery of projects that improve community infrastructure and services and to cover the upfront costs of implementing the new council. The relevant Funding Period is set out in the Guidelines established for each fund.
- In September 2017 the Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

- 1.1 **Funding Request:** In consideration for the submission of the completed Grant form, Attachment 1, Council agrees to apply the funds provided by OLG in accordance with and subject to the terms of this Agreement.
- 1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the Stronger Communities Fund – Tied Grants Guidelines (Attachment 2) issued in respect to the Fund, and as amended from time to time (the relevant Guidelines).

2. Payment

- 2.1 **Payment:** Subject to this Agreement, OLG will pay the Grant Funds to Council within 30 days of OLG receiving the following:
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.

3. GST:

3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.

3.2 **What happens if GST is imposed:** If:

- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement; and
- (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.

3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (GST).

3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (GST) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 **Use of Funding:** Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines;
- (b) only use the Funding within the Funding Period; and
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines.

4.2 **Unspent Funding:**

- (a) Any unspent or uncommitted funds held by Council at 31 December 2018 must be returned to OLG by 30 March 2019;
- (b) Council may request to extend this timeframe; and

(c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 **Bank account:** Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 **Interest:** The Funding must be paid into an interest earning account and, unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.

5. Expenditure of the Funding

5.1 **Expenditure of Funding:** Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form;
- (b) the relevant Guidelines;
- (c) information provided to OLG through the notification process defined in the relevant Guidelines; and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:

- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them;
- (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement; and
- (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.

6. Accountability

6.1 **Records:** Council must:

- (a) ensure that adequate financial and operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding;

- (b) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.

6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.

6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.

6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.

7. Reports

7.1 **Required reports** Council will:

- (a) submit to OLG the Reports set out in the relevant Guidelines at the times and in the manner specified in the Guidelines; and
- (b) as required by OLG, submit within the timeframe stipulated by OLG, any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

8. Publicity

8.1 **Acknowledgement:** Council will ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the Funding by the NSW Government incorporating the terms set out in Item 5 of Attachment 1.

8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:

- (a) The Council name;
- (b) The name of any End Recipient
- (c) The amount of the Funding; and
- (d) The title, a brief description and images of any project benefiting from the Funding.

8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded;
- (b) Use the NSW Government logo in accordance with the Funding Acknowledgement Guidelines for Recipients of NSW Government Grants in any publicity provisions of any kind (including any brochures, signage, advertising and invitations); and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:

- (a) comply with all applicable standards, laws, regulations policies and statements;
- (b) not do anything that would cause OLG to breach its obligations under any legislation; and
- (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:

- (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG; and
- (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 **Delivery of Reports and Return of Confidential Information:** Council must provide to OLG:

(a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG; and

(b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 3.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

(a) in writing, directed to the representative of the other party; and

(b) be forwarded to the address, facsimile number or the email address of that representative

(c) if to OLG sent to the address set out on the front page of this agreement;

(d) if to the Council to the address as set out in Item 1 of Attachment 1.

13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:

(a) in the case of delivery in person – when delivered to the recipient's address for service and a signature received as evidence of delivery;

- (b) in the case of delivery by post – within three (3) Business Days of posting;
- (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient; or
- (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.

13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.

13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.

13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.

13.8 **Relationship:**

- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties;
- (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

EXECUTED AS A DEED by OLG on 30 November 2017.

Executed by OLG by the Chief Executive) TIMOTHY HURST
of the Office of Local Government for) (Chief Executive)
and on behalf of the Crown in right of) ..
New South Wales but not so as to incur)
any personal liability:)

in the presence of:) (signature)

Lindsay Ewens)

(Witness name)

(Signature))

ATTACHMENT 1

GRANT FUNDING SOUGHT BY COUNCIL APPLICATION

This attachment forms part of the Funding Agreement

between OLG and Dubbo Regional Council

Item 1 Council Details

Council: Dubbo Regional Council
Name: Mark Riley
Position: General Manager
Dubbo Regional Council
PO Box 81
DUBBO NSW 2830

Item 2 Approved Project(s)

Project	Allocation (\$'000)
Dubbo Regional Council Victoria Park redevelopment – Stage 1	7,100
NSW VRA Depot Dubbo	750
NSW SES Depot Dubbo	1,550
Wellington Swimming pool redevelopment	4,500
Rygate Park Stage 2 re-development – Lighting, fencing and amenities block	565
Wellington Justice Museum	250
Geurie Multi-Court & recreation complex	245
Wiradjuri Tourism Experience	1,500
Wellington Caves Tourism complex	1,300
Dubbo Traffic management plan key infrastructure - Fitzroy street lights	10,000
Total	\$27,760

Item 3 Funding Period

End date: 30 March 2019

Item 4 Grant Funding

Funding Sought:

Stronger Communities Funding: \$27,760,000

Total Amount of Grant Funding sought: \$27,760,000

Item 5 Publicity

Additional terms:

Council must ensure that the following wording appears on all Stronger Community Fund Project Materials:

- (a) "Funded by NSW Government through the Stronger Communities Fund".
-

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement; and
- (b) workers' compensation insurance in accordance with applicable legislation in respect of all of Council employees.

EXECUTED AS A DEED by Council on

2017

Signed on behalf of the Council by its)
General Manager (~~or Interim General~~)
~~Manager~~) Pursuant to Authority Delegated)
by the Council)

In the presence of:)

Lisa Adams)

(Name of Witness))

Mark Riley)

(Name of ~~General~~ General Manager))

)
)
)
)

ATTACHMENT 2: Stronger Communities Fund – Tied Grants Guidelines

Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils.

Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

Available funding

Stronger Communities tied grants will be provided to new councils created in 2016. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community; and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems, financial management systems or change management programs;
- upgrading of council's administration buildings;
- ongoing staff or operational costs;
- projects where the former council had previously allocated funding; and

- retrospective funding for work undertaken prior to the establishment of the new council.

Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2018 and all funding acquitted before 30 June 2019.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By December 2017, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2018 must be returned to the OLG by 30 March 2019.

Acknowledgement

Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.
- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* (available at <https://sc.dpc.nsw.gov.au/resources/branding/>) in any publicity provisions of any kind, including any brochures, signage, advertising and invitations.

- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2018 and fully acquitted by 30 June 2019. Any uncommitted funds by 31 December 2018 must be returned to the OLG by 30 March 2019.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

Contacts

Council's Office of Local Government Relationship Manager is available to provide advice on the Stronger Communities Fund.

ATTACHMENT 3: Acquittal Certificate

CERTIFICATION STATEMENT BY GRANT RECIPIENT

Certification by two authorised offices of the grant recipient organisation

We, [insert name and position]

and [insert name and position]

Confirm that: [DELETE 1 OR 2 AS APPLICABLE]

1. An amount equal to the total Grant paid (\$[insert amount]) **has been expended** on the Project in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the Office of Local Government (OLG).

OR

2. The total Grant of \$[insert amount] **has not been expended**. An amount of \$ [insert amount] has not been expended and –

(a) a cheque for this amount made payable to the OLG is attached.

OR

(b) An electronic funds transfer for this amount has been transferred into the bank account of OLG.

All funds were expended in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the OLG;

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

Date: _____

Signature: x _____

Name: [insert name] _____

Position: [insert details] _____

Witness signature: x _____

Witness name: [insert name] _____

Date: _____

Signature: x _____

Name: [insert name] _____

Position: [insert details] _____

Witness signature: x _____

Witness name: [insert name] _____



**NEW COUNCIL IMPLEMENTATION FUND AND
STRONGER COMMUNITIES FUND
FUNDING AGREEMENT**

DEED		
BETWEEN	Name	The Chief Executive, Office of Local Government for and on behalf of the Crown in right of the State of New South Wales (OLG)
	A.B.N	44 913 630 046
	Address	Locked Bag 3015, Nowra, NSW 2541 Fax: 4428 4199 Email: olg@olg.nsw.gov.au
AND	Name	The Council described in Item 1 of Attachment 1

Background

- In conjunction with the NSW Government's announcement in May 2016 to create new councils across the State, the Government has established two funds being the Stronger Communities Fund (SCF) and the New Council Implementation Fund (NCIF).
- In September 2017 the NSW Government agreed to provide additional funding support to new councils for community infrastructure projects through the Stronger Communities Fund – Tied Grants program.
- The Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.
- The New Council Implementation Fund has been established by the NSW Government to cover the up-front costs of implementing the new council, enabling councils to invest savings directly into community benefits at the earliest opportunity.
- OLG has the function of providing funding to Councils and it is the Agency of the State to which the Council will report regarding the expenditure of funds provided to the Council.
- The Council agrees to accept the Funding set out in this Agreement in accordance with the terms of this Agreement.

Operative Provisions

1. Request for Grant Funding

1.1 **Funding Request:** In consideration for the submission of the completed Grant Application Form being Attachment 1, Council agrees to accept and apply the funds provided by OLG (the Funding) in accordance with and subject to the terms of this Agreement.

1.2 **Guidelines:** Council agrees to at all times comply with the Guidelines issued by the NSW Government being the:

- (a) Stronger Communities Fund Grants Guidelines (Attachment 2), and
- (b) Funding Acknowledgment Guidelines for Recipients of NSW Government Grants (which can be found at):
<https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

all as amended from time to time (the relevant Guidelines).

2. Payment

- 2.1 **Payment:** Subject to this Agreement, OLG shall pay the Grant Funds to Council upon receipt of the Grant Form duly executed by the Council.
- 2.2 **Grant Form:** The Council shall complete and deliver to OLG the Grant Form Attachment 1. This Agreement shall be binding on the Council from the date the Grant Form is delivered to OLG.
- 2.3 **Tax Invoice:** OLG will provide a recipient created Tax Invoice.
- 2.4 **Default:** OLG will not be in default of its obligation to pay the Funding if it is paid within 30 days of OLG receiving all necessary requirements from the Council.

3. GST:

- 3.1 **Supply is GST exclusive:** Unless otherwise indicated, all consideration for any supply under this Agreement is exclusive of any GST imposed in relation to the supply.
- 3.2 **What happens if GST is imposed: If:**
- (a) Despite any other provision of this Agreement, GST is imposed on any supply by Council to OLG under this Agreement, and
 - (b) OLG are or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply.

OLG will pay to Council an additional amount equal to the GST imposed on that supply at the time and in the manner OLG determines is suitable in relation to that supply.

- 3.3 **Council must be GST registered:** Council must be registered under the GST Law at the time of making any supply under this Agreement on which GST is imposed.
- 3.4 **Consequences of non-registration:** If Council is not registered under the GST Law as required under clause 3.3 then the Council will not be entitled to receive any additional amount as provided under this clause 3 (GST).
- 3.5 **If OLG pay Council too much:** If for any reason OLG pays to Council an amount under this clause 3 (GST) which is more than the GST imposed on the supply, Council must repay the excess to OLG on demand and if not paid OLG may set off the excess against any other amounts due to Council.

4. How Council must deal with the Grant Funding

4.1 Use of Funding: Council must:

- (a) use the Funding solely for the purposes set out in the Grant Form and as authorised by the relevant Guidelines,
- (b) only use the Funding within the Funding Period,
- (c) not enter into any arrangements or commitments in relation to the Grant Funding that are incompatible or inconsistent with the relevant Guidelines, and
- (d) fully acquit the funding by 30 June 2020.

4.2 Unspent Funding:

- (a) Any unspent or uncommitted funds held by Council at 31 December 2019 must be returned to OLG by 31 March 2020,
- (b) Council may request to extend this timeframe, and
- (c) OLG may approve or reject that request in OLG's absolute discretion.

4.3 Bank account: Council must ensure that at all times it can demonstrate to the satisfaction of OLG that adequate internal financial controls are in place within the existing Council banking accounts for the identification of the Funding.

4.4 Interest: The Funding must be paid into an interest earning account and

- (a) unless otherwise agreed by OLG, all interest earned on the Funding must be added to the balance of the Fund and be used by Council for the Project only in accordance with the terms of this Agreement.
- (b) the Funding is to be accounted for separately and funds should be reported as an internally restricted asset within Councils financial statements.

5. Expenditure of the Funding

5.1 Expenditure of Funding: Council is responsible for the expenditure of the Grant Funds. Council agrees to administer the Grant Funding in accordance with:

- (a) the project described in the Grant Form,
- (b) the relevant Guidelines,
- (c) information provided to OLG through the notification process defined in the relevant Guidelines, and
- (d) any reasonable directions given by OLG from time to time regarding the expenditure of the Funding.

- 5.2 **Sub-contractors:** The Council may sub-contract all or part of the delivery of projects benefited by Grant Funding to a sub-contractor (including a project partner); but Council:
- (a) Will remain responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them,
 - (b) Will ensure that all work carried out by a sub-contractor meets the requirements of this Agreement, and
 - (c) Acknowledges that Council is not relieved from any of Council obligations or liabilities under this Agreement.
- 5.3 Any funding shortfall or funding for ongoing operational activity will be funded by the Council.

6. **Accountability**

- 6.1 **Records:** Council must:
- (a) ensure that adequate operational records and registers are kept and maintained concerning decisions made regarding the expenditure of Grant Funding,
 - (b) ensure that Council keep financial records concerning the expenditure of Grant funding, in accordance with section 412(1) of the *Local Government Act 1993*,
 - (c) retain the records referred to in this clause 7 throughout the Funding Period and for seven (7) years after the date that is the earlier of the date of expiry of the Funding Period or termination of this Agreement.
- 6.2 **Accountability:** Council is accountable for all of the Grant Funding Council receives under this Agreement.
- 6.3 **Inspection:** Council must permit OLG, or any person authorised by OLG, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the records relating to the implementation of the Grant Funding and any project benefiting from the Funding.
- 6.4 **Non compliance with Agreement:** If at any time OLG considers that the Funding is not being expended by Council in accordance with the provisions of this Agreement, or the relevant Guidelines, then OLG may require Council to take such steps or make such changes as may be specified in writing by OLG and served on Council.
- 6.5 Nothing in this Agreement prevents the Minister for Local Government or the Chief Executive of OLG from exercising powers available to them under the *Local Government Act 1993*.

7. Reports

Required reports Council will submit to OLG the Reports within the timeframe stipulated by the Guidelines, and any other information that may be necessary to establish to OLG satisfaction that the terms of this Agreement have been or are being satisfied by Council.

These include, but are not limited to:

- a) By 22 December 2018, council's plan for the delivery of all projects the subject of the funding (the Delivery Plan). The Delivery Plan is to include information on governance arrangements, costings, timeframes and expected benefits.
- b) Council is to table progress reports at least quarterly to an ordinary council meeting. The progress report is to include the expenditure and outcomes achieved against the Delivery Plan. This reporting is to continue until the conclusion of the project.
- c) Council must provide a six monthly report each year by the 31 August and 28 February, to the OLG on the delivery progress and expenditure of the Funding.
- d) A final report is to be submitted upon the completion of each project the subject of the Funding. The final report is to include photographs and details of the benefits and outcomes achieved as well as a report against the Delivery Plan.

8. Publicity

8.1 **Acknowledgement:** Council will ensure that all public statements relating to any project the subject of the Funding will acknowledge the provision of the Funding by the NSW Government and that it will incorporate the terms set out in Item 5 of Attachment 1.

8.2 **OLG right to publicise:** OLG and other agencies of the NSW Government may publicise the provision of the Funding, including:

- (a) The Council name,
- (b) The name of any End Recipient,
- (c) The amount of the Funding, and
- (d) The title, a brief description and images of any project benefiting from the Funding.

8.3 **Acknowledgement of NSW Government Funding:** Council will abide by the following:

- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded,
- (b) Use the NSW Government logo in accordance with the *Funding Acknowledgement Guidelines for Recipients of NSW Government Grants* in any publicity provisions of any kind (including any brochures, signage, advertising and invitations), and
- (c) Issue an invitation to the relevant State Government MP to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

9. Changes to Arrangements

- 9.1 Written agreement between Council and OLG must be obtained for any variation to this agreement.

10. Compliance with law

- 10.1 Council must:
 - (a) comply with all applicable standards, laws, regulations policies and statements,
 - (b) not do anything that would cause OLG to breach its obligations under any legislation, and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Council obligations under this Agreement.

11. Indemnity

- 11.1 **Council Indemnity:** Council shall at all times indemnify, hold harmless and defend OLG and its officers, employees and agents ("those indemnified") from and against liability or loss (including reasonable legal costs and expenses), which may be suffered or incurred by any of those indemnified by reason of or in connection with:
 - (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project other than any Intellectual Property supplied by OLG, and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your officers, employees, agents, contractors and volunteers.

11.2 **Reduction of Indemnity:** Council liability to indemnify those indemnified under this Agreement shall be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.

11.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of Council separate and independent of any of Councils other responsibilities and will continue beyond the termination of this Agreement.

12. When the Funding Period ends

12.1 Delivery of Reports and Return of Confidential Information:

Council must provide to OLG:

- (a) All final reports due to OLG under the relevant Guidelines or otherwise requested by OLG, and
- (b) Deliver to OLG the Acquittal Certificate in the form supplied as Attachment 3.
- (c) The Project Funding period will end upon the submission of an Acquittal Certificate acceptable to OLG.

12.2 **No entitlement to further payment:** For the avoidance of doubt, upon the expiration of the Funding Period, Council will not be entitled to any further payments under this Agreement notwithstanding that the amount paid to Council at that time is less than the Funding specified in this Agreement.

13. Miscellaneous

13.1 **This Agreement:** Where used means these terms and the Grant Form Attachment 1 duly completed.

13.2 **Change of contact details:** Council must inform OLG within seven (7) days of any material change to the Council contact details set out in Item 1 of the Attachment 1.

13.3 **Notice Requirements:** A notice under this Agreement must be:

- (a) in writing, directed to the representative of the other party, and
- (b) be forwarded to the address, facsimile number or the email address of that representative,
- (c) if to OLG sent to the address set out on the front page of this agreement,
- (d) if to the Council to the address as set out in Item 1 of Attachment 1.

13.4 **When a notice is served:** A notice under this Agreement will be deemed to be served:

- (a) in the case of delivery in person – when delivered to the recipient's address for service and a signature received as evidence of delivery,
- (b) in the case of delivery by post – within three (3) Business Days of posting,
- (c) in the case of delivery by facsimile – at the time of dispatch if the sender receives a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient, or
- (d) in the case of delivery by email – on receipt of confirmation by the sender that the recipient has received the email.

13.5 **Delivery late in the day:** Notwithstanding the provisions of this clause 12 (**Notices**), if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.

13.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.

13.7 **Governing jurisdiction:** Council and OLG submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.

13.8 **Relationship:**

- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties,
- (b) You shall not hold yourself out to be an employee, partner, agent or representative of OLG.

ATTACHMENT 1

GRANT APPLICATION FORM

This attachment forms part of the Funding Agreement

between OLG and Edward River Council

Item 1 Council Details

Council: Mr Adam McSwain
General Manager
Edward River Council
PO Box 270
DENILIKUIN NSW 2710

Item 2 Approved Project(s)

Project – Stronger Communities Fund	Allocation
New office complex and museum on the Deniliquin Festival Site.	600,000
	600,000

Item 3 Funding Period

End date: 30 June 2020

Item 4 Grant Funding

Funding Sought:

Stronger Communities Funding: \$600,000

Total Amount of Grant Funding sought: \$600,000

Item 5 Publicity

Additional terms:

Council must ensure that the following wording appears on all Funding Project Materials:

- (a) "Funded by NSW Government through the Stronger Communities Fund", or where applicable
- (b) "Funded by NSW Government through the New Council Implementation Fund".

Item 6 Insurance

Insurance policies: By signing the Application form Council confirms that it holds:

- (a) adequate broad form public liability insurance to cover, as a minimum, all of Council obligations and liabilities under this Agreement, and

ATTACHMENT 2

Stronger Communities Fund – Tied Grant Round Guidelines

1. Purpose of the Stronger Communities Fund

The Stronger Communities Fund was established by the NSW Government to provide new councils with funding for the delivery of projects that improve community infrastructure and services.

The first round of the Stronger Communities Fund has been utilised by communities and councils providing up to \$15 million for each new council to kick start delivery of priority community initiatives.

The tied grant round of the Stronger Communities Fund will provide funding for specific projects, identified by the NSW Government, within the new councils and to councils previously subject to a merger proposal.

2. Purpose of these Guidelines

These Guidelines have been developed to assist councils to understand their obligations in relation to the tied grant round of the Stronger Communities Fund, including requirements for governance and reporting.

3. Available funding

Stronger Communities tied grants will be provided to new councils created in 2016 and councils previously subject to a merger proposal. Funding will be allocated by the NSW Government based on priorities identified by the NSW Government.

4. How the Stronger Communities Fund can be spent?

Funds will be required to be spent on identified projects. Any funding shortfall or funding for ongoing operational activity will be funded by the council.

Councils are responsible for implementing projects, consistent with these Guidelines.

5. Variation of identified projects

Any application by the Council to vary the projects to be funded or for the purpose of the tied grant will be considered on case by case basis. Any proposal to vary or modify the tied grant shall be made to the Minister for Local Government.

6. Criteria for selecting projects

Councils are to fund projects, identified by the NSW Government, that deliver new or improved infrastructure or services to the community.

Projects must meet the following criteria:

- demonstrate social and/or economic benefits to the community, and
- give consideration to the processes and procedures outlined in the capital expenditure review guidelines issued by the Office of Local Government.

7. What are ineligible activities?

The Stronger Communities Fund is not to be used for:

- implementation costs of the new council such information technology systems,

- financial management systems or change management programs,
- costs associated with the preparation for or legal challenges to merger proposals,
- upgrading of council's administration buildings, or
- ongoing staff or operational costs.

8. Accountability and acquittal of funds

Councils will be responsible for the effective governance of the Stronger Communities Fund and will be required to use a project management framework that supports the delivery of projects.

The Stronger Communities Fund is to be spent or committed by 31 December 2019 and all funding acquitted before 30 June 2020. Timeframes for any future funding rounds will be as determined within the Funding Agreement.

Councils are accountable for the expenditure of the Stronger Communities Fund in accordance with these guidelines, which require the following:

- The Office of Local Government will prepare a funding agreement to provide Stronger Community funds to councils, including agreement to undertake the necessary projects.
- On signing of the funding agreement and submission of an invoice, the OLG will provide the funds to councils.
- By December 2018, councils are to notify the OLG of their plan for delivering the tied projects under the Stronger Communities Fund. Notification is to include information on governance arrangements, including costings, timeframes (including major delivery milestones) and expected benefits. Councils are to advise the OLG of any changes to the delivery plan.
- Councils are to table progress reports at least quarterly to an ordinary council meeting on the expenditure and outcomes within their Stronger Communities Fund ongoing reporting.
- Councils must provide six monthly reports each year by 31 August and 28 February, to the Office of Local Government on delivery progress and expenditure within the Stronger Councils Fund reporting.
- A final report is to be submitted on the completion of each of the projects, including photos and description of the benefits and outcomes achieved.
- Any interest received from the investment of the funds is to be added to the balance of the fund.
- The Stronger Communities Fund is to be accounted for separately and funds should be reported as an internally restricted asset within the financial statements.
- Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

9. Acknowledgement

The funding agreement will specify that funding is conditional on agreement to the Funding Acknowledgment Guidelines for Recipients of NSW Government Grants which can be found at <https://communications.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/files/Communications-and-Engagement/fa6fd6d77a/Funding-Acknowledgement-Guidelines-for-Recipients-of-NSW-Government-Grants.pdf>

In particular, each Council will abide by the following:

- Ensure that all public statements relating to the Project or the Grant Funding acknowledge the provision of the funding by the NSW Government.

- Acknowledge the NSW Government's contribution in any written material in relation to the project and in any permanent signage in relation to any projects funded.
- Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations).
- Issue an invitation to the Minister for Local Government (or nominee) to any launch or public event associated with the funding and that where they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event and opening any facility.

10. Timeframes

The Stronger Communities Fund allocation must be spent or committed by 31 December 2019 and fully acquitted by 30 June 2020. Any uncommitted funds by 31 December 2019 must be returned to the OLG by 31 March 2020.

Council is to notify the OLG at the earliest time if it will be unable to meet these timeframes. Extensions will be considered on a case-by-case basis.

11. Contacts

Council's Office of Local Government Council Engagement Manager is available to provide advice on the Stronger Communities Fund.

ATTACHMENT 3

Acquittal Certificate

CERTIFICATION STATEMENT BY GRANT RECIPIENT

Certification by the General Manager of the grant recipient council

I, [insert name and position]

Solemnly and sincerely declare: [DELETE 1 OR 2 AS APPLICABLE]

1. An amount equal to the total Grant paid \$[insert amount] has been expended on the Project in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the Office of Local Government (OLG).

OR

2. The total Grant of \$[insert amount] has not been expended. An amount of \$[insert amount] has not been expended and – [DELETE (a) OR (b) AS APPLICABLE]

(a) a cheque for this amount made payable to the OLG is attached.

OR

(b) An electronic funds transfer for this amount has been transferred into the bank account of OLG.

All funds were expended in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the OLG;

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Declared at: on
[place] [date]

.....
[signature of declarant]

in the presence of an authorised witness, who states:

I, a
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document and the document I relied on was

.....
[describe identification document relied on]

.....
[signature of authorised witness]

.....
[date]