

# NATIONAL PARTNERSHIP AGREEMENT ON COAL SEAM GAS AND LARGE COAL MINING DEVELOPMENT

Council of  
Australian  
Governments

An agreement between:

- the **Commonwealth of Australia** and
- the **States and Territory, being:**
  - ❖ the **State of New South Wales;**
  - ❖ the **State of Victoria;**
  - ❖ the **State of Queensland;**
  - ❖ the **State of South Australia; and**
  - ❖ the **Northern Territory of Australia.**

This Agreement will strengthen the regulation of CSG and large coal mining development by ensuring that future decisions are informed by substantially improved science and independent expert advice.

# National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development

## INTERGOVERNMENTAL AGREEMENT ON FEDERAL FINANCIAL RELATIONS

### PRELIMINARIES

1. This National Partnership Agreement (the Agreement) is created subject to the provisions of the **Intergovernmental Agreement on Federal Financial Relations** and should be read in conjunction with that Agreement and its Schedules, which provide information in relation to performance reporting and payment arrangements under the Intergovernmental Agreement.
2. In entering this Agreement, the Commonwealth of Australia (the Commonwealth) and New South Wales, Victoria, Queensland, South Australia and the Northern Territory (the States) recognise that they have a mutual interest in:
  - (a) the long term health, quality and viability of Australia's water resources; and
  - (b) the sustainable development of coal seam gas (CSG) and coal mining industries, given their potential contribution to Australia's energy security and balance of international trade.
3. Signatories to this Agreement (the Parties) acknowledge public concerns about the actual and potential impacts of CSG and coal mining activities on water resources and agree there is a critical need to strengthen the science that underpins the regulation of these industries.
4. Decision making about CSG and coal mining developments that are likely to have a significant impact on water resources will be strengthened by:
  - (a) more closely identifying potential and actual impacts on water resources, and supporting Parties to avoid or minimise significant impacts through a transparent process that builds public confidence;
  - (b) substantially improving their collective scientific understanding of the actual and potential impacts of CSG and coal mining developments on water resources; and
  - (c) ensuring that the best scientific information and expertise underpins all relevant regulatory processes and decisions.
5. The implementation of this Agreement will be consistent with the objectives and outcomes of all National Agreements and National Partnerships agreed by the Parties.



6. Parties to this Agreement are also committed to providing certainty for application timeframes and ensuring that assessment processes are clear to all Parties.

## **PART 1 – FORMALITIES**

### **Parties to this Agreement**

7. This Agreement is between the Commonwealth of Australia (the Commonwealth) and New South Wales, Victoria, Queensland, South Australia and the Northern Territory (the States).

### **Term of the Agreement**

8. This Agreement will commence as soon as the Commonwealth and one other Party signs the Agreement and will expire on 30 June 2014 or on completion of the project, including the acceptance of final performance reporting and processing of final payments against performance benchmarks and project milestones, unless terminated earlier or extended as agreed in writing by the Parties.
9. Although the Agreement will expire on 30 June 2014, the Parties intend that the legislative and regulatory arrangements to be put in place will ensure that the objectives of the Agreement continue to be met.

## **PART 2 – OBJECTIVES, OUTCOMES AND OUTPUTS**

### **Objective**

10. This Agreement will strengthen the regulation of CSG and large coal mining development by ensuring that future decisions are informed by substantially improved science and independent expert advice.

### **Outcomes**

11. This Agreement will facilitate the achievement of the following outcomes:
  - (a) increased evidence supports strategic and regional scale management of CSG and large coal mining developments and their impact on water resources;
  - (b) strengthened scientific evidence and independent expertise informs regulatory decisions on CSG and coal mining developments that are likely to have a significant impact on water resources; and
  - (c) well informed communities have greater confidence in Commonwealth and State regulation of CSG and large coal mining development.

### **Outputs**

12. The objectives and outcomes of this Agreement will be achieved by:
  - (a) engagement by the Parties in the development of the IESC's research agenda;
  - (b) investment by the Commonwealth in public good scientific research on the actual and potential impacts of CSG and coal mining activities on water resources, including bioregional assessments of areas with commercially viable CSG and coal reserves;
  - (c) proactive publication of scientific research and advice to Parties by the IESC;

- (d) amendment by the States of relevant legislation, as necessary, giving legal effect to the commitments made under this Agreement; and
- (e) provision of advice by the IESC on development proposals referred to it under the terms of this Agreement.

## **PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY**

13. To realise the objectives and commitments in this Agreement each Party has specific roles and responsibilities, as outlined below and in any Schedules and Implementation Plans under this Agreement.

### **Role of the Commonwealth**

14. The Commonwealth agrees to be accountable for the following roles and responsibilities:
- (a) providing a financial contribution to the States to support the implementation of this Agreement;
  - (b) monitoring and assessing the performance in the delivery of actions under this Agreement to ensure that outputs are delivered and outcomes are achieved within the agreed timeframe;
  - (c) establishing and maintaining the IESC under the *Environment Protection and Biodiversity Conservation Act 1999* (refer to Schedule 1 for Terms of Reference);
  - (d) consulting with the States regarding membership of the IESC prior to its establishment and filling subsequent vacancies;
  - (e) providing input to the IESC's research agenda, including in relation to the Committee's advice on priority areas for bioregional assessment; and
  - (f) seeking advice from the IESC at appropriate stages of the approvals process for a CSG or coal mining development proposal that are likely to have a significant impact on water resources, on which the Commonwealth is intending to make a decision.

### **Role of the States and Territories**

15. The States agree to be accountable for the following roles and responsibilities:
- (a) providing input to the IESC's research agenda, including in relation to the Committee's advice on priority areas for bioregional assessment;
  - (b) amending relevant laws, regulations and guidelines as necessary so that the laws provide the following outcomes:
    - i. CSG or coal mining developments that are likely to have a significant impact on water resources are referred to the IESC for advice; and
    - ii. decision makers on applications which have been referred to the IESC take account of the IESC's advice in a transparent manner.
  - (c) seeking advice from the IESC at appropriate stages of the approvals process for a CSG or large coal mining development proposal that are likely to have a significant impact on water resources, and on which the Party is intending to make a decision; and



- (d) reporting on the delivery of milestones and performance against key indicators, as set out in Part 4 – Performance Monitoring and Reporting.

### **Shared roles and responsibilities**

- 16. The Commonwealth and the States share the following roles and responsibilities:
  - (a) negotiating new or revised Schedules to this Agreement; and
  - (b) supporting an independent review of the operation and achievements of the Agreement.
- 17. The Parties will meet the requirements of Schedule E, Clause 26 of the Intergovernmental Agreement on Federal Financial Relations by ensuring that prior agreement is reached on the nature and content of any events, announcements, promotional material or publicity relating to activities under an Implementation Plan, and that the roles of both Parties will be acknowledged and recognised appropriately.

## **PART 4 – PERFORMANCE MONITORING AND REPORTING**

### **Performance milestones and benchmark**

- 18. The Parties agree to meet the following milestones:
  - (a) by 1 July 2012 the Commonwealth will establish the IESC;
  - (b) by 30 September 2012 each State will publish a protocol that describes how they will decide which project applications should be referred to the IESC for advice in accordance with the terms of this Agreement; and
  - (c) by 31 March 2013 the States will amend relevant legislation, regulations and guidelines in accordance with clause 15.
- 19. The States agree to meet the following benchmark: during the period between the publication of protocols under clause 18(b) and the amendment of laws, regulations and guidelines under clause 15 (b), the States refer all project applications for CSG or coal mining developments that are likely to have a significant impact on water resources to the IESC for advice.

### **Reporting arrangements**

- 20. The Parties will report to the Council of Australian Governments (COAG) Reform Council on the achievement of agreed milestones and benchmarks:
  - (a) by 30 October 2012 on:
    - i. the publication of protocols for project referral (the States); and
    - ii. the establishment and operation of the IESC (the Commonwealth).
  - (b) by 30 April 2013 on:
    - i. the amendment of relevant legislation or regulations as necessary, to give legal effect to undertakings set out in this Agreement (the States); and
    - ii. their performance in referring relevant project applications to the IESC for advice in the period between 1 October 2012 and effecting legislative amendment (all Parties).

21. The Parties will report to the Standing Council on Environment and Water by 30 April 2014 on their performance in referring applications to the IESC between 1 April 2013 and 31 March 2014.
22. As soon as possible after 30 October 2012 (in relation to the Parties' first report) and 31 April 2013 (in relation to the Parties' second report) the COAG Reform Council will assess the degree to which Parties have met agreed milestones and benchmark and report to the Prime Minister on the outcomes of that assessment.

## PART 5 – FINANCIAL ARRANGEMENTS

### Financial contributions

23. The Commonwealth has committed to the provision of up to \$50 million from 2011-12 to 2013-14 through project payments to the States to support the reforms covered by this Agreement.
24. Fifty per cent of the \$50 million has been allocated to States on an equal per capita basis. Twenty five per cent has been allocated based on the relative distribution of coal production and the final twenty five per cent is divided according to the relative distribution of CSG development. This calculation seeks to assist those Parties that are likely to carry the heaviest regulatory burden in this area.
25. Of the Commonwealth's financial contribution:
  - (a) \$20 million will be provided in 2011-2012 as an in-advance project payment in recognition of the costs associated with the agreed reforms;
  - (b) \$10 million will be provided in 2012-2013 as an in-arrears project payment subject to achievement of the milestone at clause 18(b); and
  - (c) \$20 million will be provided in 2013-2014 as an in-arrears project payment subject to achievement of the milestone at clause 18(c) and the benchmark at clause 19.
26. The relevant Commonwealth Minister will decide on the second and third payments having regard to the reports of the COAG Reform Council made pursuant to clause 22.
27. The Commonwealth's estimated financial contribution to the operation of this Agreement, including through National Partnership payments to the States paid in accordance with *Schedule D – Payment Arrangements* of the **Intergovernmental Agreement on Federal Financial Relations** are shown in **Table 1**.

**Table 1: Estimated Commonwealth financial contributions**

States and Territory	2011-12 (\$m)	2012-13 (\$m)	2013-14 (\$m)	Total
New South Wales	7.00	3.50	7.00	17.50
Victoria	4.05	2.03	4.05	10.13
Queensland	7.40	3.70	7.40	18.50
South Australia	1.25	0.62	1.25	3.11
Northern Territory	0.30	0.15	0.30	0.75
<b>Total</b>	<b>20.00</b>	<b>10.00</b>	<b>20.00</b>	<b>49.99</b>



## PART 6 – GOVERNANCE ARRANGEMENTS

### Enforceability of the Agreement

28. The Parties do not intend any of the provisions of this Agreement to be legally enforceable. However, that does not lessen the Parties' commitment to this Agreement.

### Review of the Agreement

29. An independent review of the operation and achievements of the Agreement will be commissioned by the Parties by 1 July 2014 and published by 31 December 2014.

### Delegations

30. The Commonwealth Minister for the Environment is authorised to agree and amend Schedules to this Agreement.
31. Respective State and Territory Ministers with portfolio responsibility for the regulation of the impacts of CSG and coal mining developments on water resources are authorised to agree and amend Schedules to this Agreement.

### Dispute resolution

32. Any Party may give notice to other Parties of a dispute under this Agreement.
33. Officials of relevant Parties will attempt to resolve any dispute in the first instance.
34. If a dispute cannot be resolved by officials, it may be escalated to the relevant Ministers and if necessary, the Standing Council on Environment and Water.
35. If a dispute cannot be resolved by the relevant Ministers, it may be referred by a Party to COAG for consideration.

### Variation of the Agreement

36. The Agreement may be amended at any time by agreement in writing by all the Parties.
37. A Party to the Agreement may terminate their participation in the Agreement at any time by notifying all the other Parties in writing.

### Interpretation

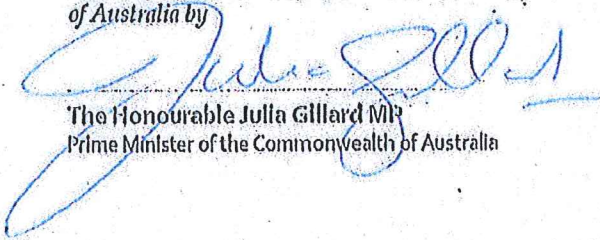
38. For the purposes of this Agreement:
- (a) **Water resources** means:
- I. surface water or ground water; or
  - II. a watercourse, lake, wetland or aquifer (whether or not it currently has water in it); and includes all aspects of the water resource (including water, organisms and other components and ecosystems that contribute to the physical state and environmental value of the water resource).
- (b) **Cumulative impact** is defined as the total impact of CSG and/or large coal mining developments on water resources when all such developments (past, present and/or reasonably foreseeable) are considered.

- (c) **Significant impact** on water resources is caused by a single action or the cumulative impact of multiple actions which would directly or indirectly:
- I. result in a substantial change in the quantity, quality or availability of surface or ground water;
  - II. substantially alter ground water pressure and/ or water table levels;
  - III. alter the ecological character of a wetland that is State significant or a Ramsar wetland;
  - IV. divert or impound rivers or creeks or substantially alter drainage patterns;
  - V. reduce biological diversity or change species composition;
  - VI. alter coastal processes, including sediment movement or accretion, or water circulation patterns;
  - VII. result in persistent organic chemicals, heavy metals, or other potentially harmful chemicals accumulating in the environment such that biodiversity, ecological integrity, human health or other community and economic use may be adversely affected; or
  - VIII. substantially increase demand for, or reduce the availability of water for human consumption.
- (d) **Regulation** is defined as Commonwealth regulatory functions under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and state regulatory functions under legislation where they relate to government decisions on approval of CSG and coal mining developments that are likely to have a significant impact on water resources.
- (e) **Coal seam gas development** is defined as any activity proposed for the purpose of extracting CSG that are likely to have a significant impact on water resources, either in its own right or through its contribution to the cumulative impact of development activities on water resources.
- (f) **Large coal mining development** is defined as proposed coal mine activities that are likely to have a significant impact on water resources either in their own right or through their contribution to the cumulative impact of development activities on water.
- (g) **Bioregional assessment** is defined as a scientific analysis of the ecology, hydrology and geology of a region with explicit reference to an assessment of the potential direct and indirect impacts of CSG and coal mining development on water resources.
- (h) **Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining (the IESC)** refers to the body the Commonwealth will establish under the Environment Protection and Biodiversity Conservation Act 1999. In the period before the permanent committee is operating, the term refers to the Interim Committee on Coal Seam Gas and Coal Mining Development (the Interim IESC), which is already established.



The Parties have confirmed their commitment to this Agreement as follows:

*Signed for and on behalf of the Commonwealth  
of Australia by*



The Honourable Julia Gillard MP  
Prime Minister of the Commonwealth of Australia

*Signed for and on behalf of the  
State of New South Wales by*

The Honourable Barry O'Farrell MP  
Premier of the State of New South Wales

*Signed for and on behalf of the  
State of Victoria by*

The Honourable Ted Baillieu MP  
Premier of the State of Victoria

*Signed for and on behalf of the  
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The Honourable Anna Bligh MP  
Premier of the State of Queensland

*Signed for and on behalf of the Northern  
Territory by*

The Honourable Paul Henderson MLA  
Chief Minister of the Northern Territory of Australia

*Signed for and on behalf of the  
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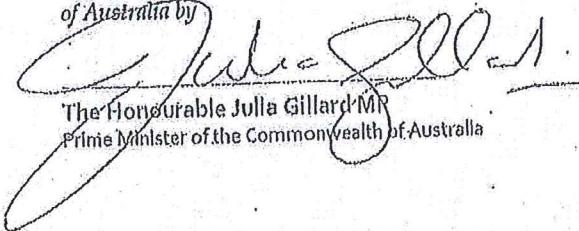
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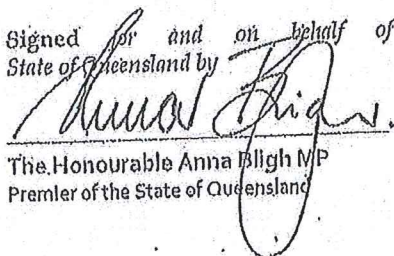
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## SCHEDULE 1: TERMS OF REFERENCE FOR THE INDEPENDENT EXPERT SCIENTIFIC COMMITTEE ON COAL SEAM GAS AND LARGE COAL MINING

### PURPOSE

The Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining (the IESC, or the Committee) is being established under the *Environment Protection and Biodiversity Conservation Act 1999* to:

- Improve the science base in relation to the interaction of coal seam gas (CSG) and large coal mining developments and water resources; and
- Provide Commonwealth, State and Territory Governments with expert scientific advice relating to CSG and large coal mining development proposals that are likely to have a significant impact on water resources.

Scientific information relating to water resources is intended to cover potential changes caused by CSG and large coal mining developments and other issues relating to the quality, composition and quantity of water, the environmental values of the water resource and the current and future economic, social and environmental uses of water.

The Committee will provide advice on proposals for CSG and coal mining developments that are likely to have a significant impact on water resources, in accordance with the National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development (the NPA).

The requirement under the NPA for participating governments to take account of the Committee's advice for the purpose of informing regulatory decisions does not extend to:

- Proposals for any other extractive activity other than those identified above; or
- Proposals to undertake any other development activity that has the potential to have a significant impact on water resources.

The Committee will make public its advice and the findings from any research it oversees.

### TERMS OF REFERENCE FOR THE COMMITTEE

The Committee will:

1. Following consultation with Commonwealth, State and Territory governments that are party to the NPA:
  - a. Scope and advise on bioregional assessments in areas of high potential impact from CSG and/or large coal mining developments, including providing advice to the Commonwealth Minister for the Environment on the priority areas in which these assessments should be undertaken;
  - b. Engage and support regional natural resource management authorities or bodies to deliver bioregional assessments with a view to these assessments informing ongoing

catchment planning. It is anticipated that the role of regional natural resource management authorities or bodies in the bioregional assessment process could include:

- i. Contribution to scoping the approach to undertaking bioregional assessments
    - ii. Participating in the delivery of bioregional assessments according to agreed standards and methodology, noting that this may need to be done in a collaborative way where major coal and water basins cross regional boundaries;
    - iii. Receiving funding to both support their engagement in bioregional assessments and to commission regionally specific data and/or information layers required for the bioregional assessments; and
    - iv. Interacting with the providers of cross-regional data, information and analysis (e.g. CSIRO).
  - c. Advise on research priorities that address critical gaps in scientific understanding and meet Parties' need for further evidence to inform regulatory decisions;
  - d. Scope and oversee research commissioned by the Commonwealth Minister for the Environment in line with the research priorities set out under 1(a) and (c); and
  - e. Provide advice on options for improving the consistency and comparability of research in this area, for example data collection models and standards.
2. Provide scientific input to support the development of leading practice standards in relation to the protection of water resources from the impacts of CSG and large coal mining developments.
  3. As requested by governments, and within no more than two months of receiving the request, provide Commonwealth and State governments with expert scientific advice relating to CSG and large coal mining development proposals that are likely to have a significant impact on water resources. This advice will be scientific in nature. It will not include regulatory advice. The information and considerations provided will be designed to assist and support the statutory decision maker, i.e. third parties will not be able to seek the IESC's advice. Depending on the nature of specific proposals, this could include advice on:
    - a. Potential hydrological and hydro-geological impacts on the quality and quantity of water available in Australia's catchments and groundwater resources;
    - b. Potential impacts on the quality, biological integrity, structural integrity and hydraulic balance of ground and surface water resources;
    - c. How the potential impacts on water resources may be avoided, minimised or mitigated; and/or
    - d. Appropriate management and monitoring of impacts of CSG or large coal mining proposals on water resources.
  4. The Committee will make public guidelines addressing the information requirements considered necessary by the Committee to allow it to undertake its activities in a timely fashion.
  5. The Committee will provide advice outside the prescribed scope only in the following instances:
    - a. Where the Commonwealth requests advice that is related to a matter of national environmental significance in accordance with the *Environmental Protection and Biodiversity Conservation Act 1999* and within the scope of the Committee's expertise; and/or
    - b. Where the Commonwealth supports a request by one or more Parties for advice that is within the scope of the Committee's expertise.



## GUIDANCE FOR THE COMMITTEE

As part of its role in providing governments with scientific advice on potential hydrological and hydro-geological impacts of CSG and large coal mining proposals, the Committee should have regard to:

- The primacy of the role of State and Territory governments in regulating CSG and large coal mining developments and water resource management generally;
- The Commonwealth Government's role in regulating any of these developments that is likely to have a significant impact on matters of national environmental significance under the *Environment Protection and Biodiversity Conservation Act 1999*;
- The terms of the National Partnership Agreement negotiated between governments in relation to this issue;
- Any definitions agreed between governments, for example in relation to determining whether a proposal is likely to have a significant impact on water resources;
- The aim of all governments that the work of the Committee will better inform regulatory decision making processes but will not unduly delay regulatory decision making processes;
- Relevant land users, local governments and regional body interests in the matters being considered by the Committee;
- The adequacy of proposed programs for water-related studies, monitoring and reports; and
- Other hydrological or hydro-geological matters relating to proposed CSG and large coal mining activities.

In advising on research priorities, it is proposed that the Committee should have regard to:

- The views of the States and Territories party to the Agreement;
- The existing suite of relevant research activities underway or that have been completed;
- Research that identifies key gaps in science and understanding of the cumulative impacts of CSG and large coal mine developments on water resources;
- Regions under existing pressure in relation to cumulative impacts associated with existing and proposed CSG and large coal mining developments; and
- How public perception of risk might be responded to through research.

In so doing, the Committee will seek to ensure that commissioned research complements and strengthens existing work; filling critical gaps and promoting consistency in the evidence that informs regulation.