

Coal Seam Gas and Large Coal Mining Development: First assessment report

Report to the Council of Australian Governments

28 February 2013



Coal Seam Gas and Large Coal Mining Development: First assessment report

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About the COAG Reform Council

The COAG Reform Council has been established by the Council of Australian Governments (COAG) as part of the arrangements for federal financial relations. The council is independent of individual governments and reports directly to COAG.

The COAG Reform Council's mission is to assist COAG to strengthen the performance and public accountability of governments.

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Acknowledgements

The council would like to acknowledge the assistance of many people and organisations in preparing this report. The council received valuable input and feedback from officers of the Commonwealth and State governments in developing this report.

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The Hon Julia Gillard MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

On behalf of the COAG Reform Council, I am pleased to present our report, *Coal Seam Gas and Large Coal Mining Development: First assessment report*, prepared in accordance with clause C19 of the *Intergovernmental Agreement on Federal Financial Relations*.

In our first of two reports on this National Partnership, we have assessed whether the Commonwealth and States have met pre-determined milestones. We found the Commonwealth partially completed its milestone, NSW did not complete its milestone, Victoria and Queensland completed their milestones and South Australia partially completed its milestone.

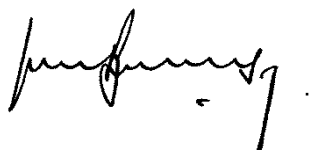
We found that although the Commonwealth and South Australia did not meet the milestones by 30 October 2012, there was little risk to them subsequently completing the milestones.

The NSW and Commonwealth Governments have not agreed on NSW's draft protocol. It remains unclear how NSW will decide which projects to refer to the Independent Expert Scientific Committee for advice outside of land it has identified as 'Strategic Agricultural Land'.

Building on the lessons learned from this National Partnership, the council has made a recommendation to COAG aimed at improving the design of reporting arrangements for future National Partnerships.

Consistent with the council's reporting responsibilities, the council will publicly release this report in April 2013.

Yours sincerely



The Hon John Brumby
Chairman

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Key points

The National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development aims to strengthen decision-making through independent advice

The Commonwealth Government is providing up to \$50 million in funding over three years to NSW, Victoria, Queensland and South Australia. Payments include \$20 million to implement reforms and \$30 million subject to the achievement of milestones.

This report assesses whether governments achieved the first round of milestones by 30 October 2012, for which in-arrears project payments are available for the States.

The Commonwealth milestone is delayed and the NSW milestones are at risk

Government	Progress status	Risk status
Commonwealth	Milestone partially completed	Delayed
NSW	Milestone not completed	Milestones at risk
Victoria	Milestone completed	No significant risks identified
Queensland	Milestone completed	No significant risks identified
South Australia	Milestone partially completed	No significant risks identified

The Commonwealth partially completed its milestone to establish the Independent Expert Scientific Committee (IESC) by 1 July 2012. It established an 'interim' committee and passed legislation to establish the IESC, but had not appointed the IESC by 30 October 2012.

The States agreed to publish a protocol that describes how they will decide which project applications should be referred to the IESC for advice.

- Victoria and Queensland did this by 30 September 2012.
- South Australia's protocol commenced on 30 September 2012, however it was not publicly available on the South Australian Government's website by 30 October 2012.
- NSW had not published a protocol by 30 October 2012.

The NSW and Commonwealth Governments have not agreed on NSW's draft protocol. It remains unclear how NSW will decide which projects to refer to the IESC for advice outside of land it has identified as 'Strategic Agricultural Land'.

We have made a recommendation to COAG for future National Partnerships to:

- ensure that where responsibility for a milestone is shared, this is reflected in the allocation of milestones in the agreement
- ensure consistency between future milestones or benchmarks and any current milestones or benchmarks they are dependent upon.

Chapter 1. Introduction

The National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development (the National Partnership) is an agreement between the Commonwealth, NSW, Victorian, Queensland and South Australian governments.

This report assesses the achievement of performance benchmarks (targets) linked to ‘in-arrears project payments’ for each State under the National Partnership. This is the council’s first of two assessment reports for this National Partnership.

This chapter provides an overview of:

- Coal Seam Gas (CSG) in Australia
- the context, structure and funding of the National Partnership
- the council’s approach to assessing performance
- the structure of the report.

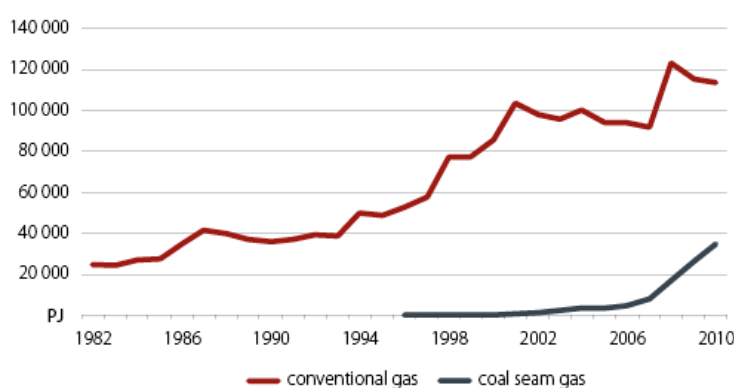
1.1 National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development

Coal Seam Gas in Australia

The National Partnership demonstrates an interest by participating governments in the sustainable development of CSG and coal mining industries, given their potential contribution to Australia’s energy security and balance of international trade (COAG 2012, cl. 2).

Australia’s CSG reserves that have been identified as profitably extractable have been increasing in recent years up to around 35 000 petajoules (PJ) at latest estimates (Figure 1.1). Estimates suggest a further 65 000 PJ could become economically viable in the future and there are even larger estimates of inferred (122 000 PJ) and potential (259 000 PJ) CSG resources (DRET, GA *et al.* 2012, p. 17).

Figure 1.1 Australia’s economically viable gas resources (petajoules)



Source: (BREE 2012, p. 15).

The Commonwealth Government's 2012 Energy White Paper set out a policy framework to strengthen Australia's long-term energy security and to further expand energy exports to meet growing global demand for energy (DRET 2012).

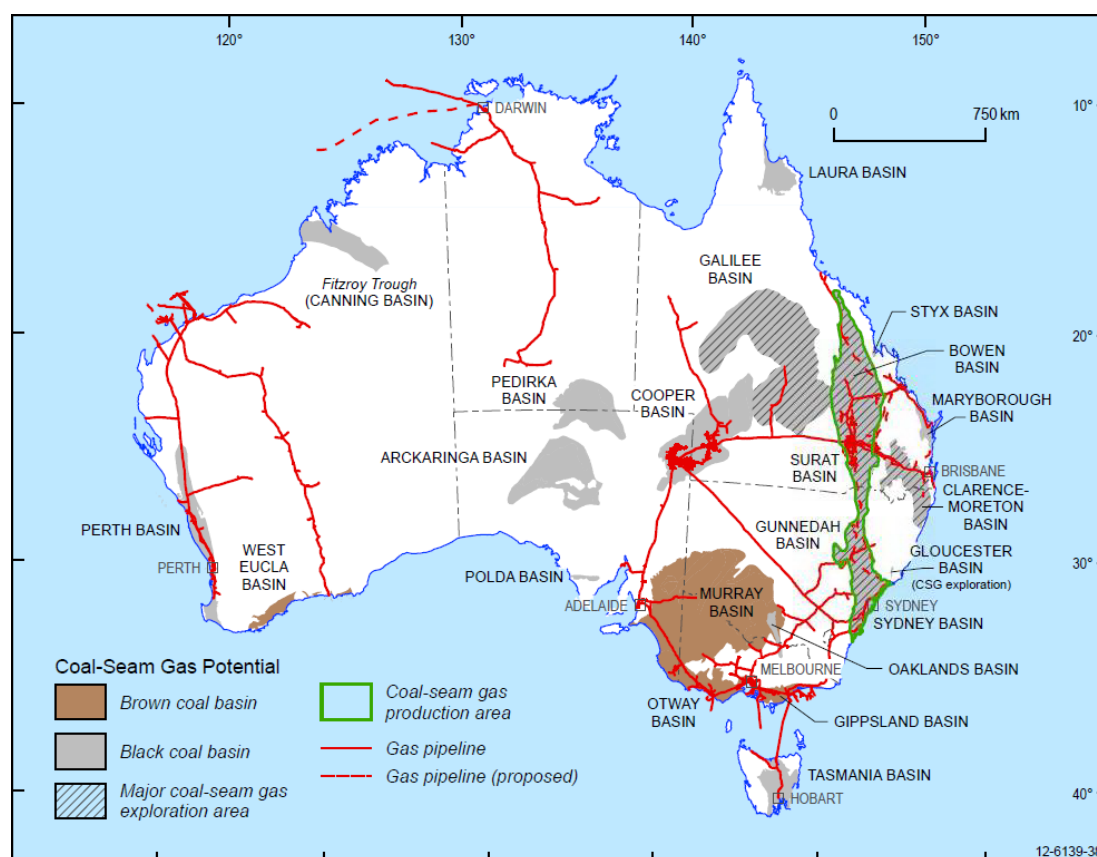
The International Energy Agency's 2012 World Energy Outlook found that natural gas was the only fossil fuel for which global demand grows in all scenarios, noting strong demand growth in China, India and the Middle East (IEA 2012). Australia will play a role in meeting this demand growth through conventional gas as well as CSG exports.

CSG is a relatively new source of energy in Australia, with Queensland producing CSG from the Bowen Basin only since 1997 (CSIRO 2012). CSG is an increasingly important source of natural gas. In the five years to 2010–11, CSG production increased from 2% to 11% of Australia's total gas production (SCER 2012). Queensland led this growth, where around 2400 CSG production wells supply 90% of the State's gas needs (APPEA 2012; DEHP 2012).

NSW production is currently limited to AGL's Camden Gas Project, which supplies approximately 6% of NSW's gas needs (NSW Trade & Investment 2012). Exploration for CSG in Victoria and South Australia is at an early stage and there is currently no CSG production in either of those states (DMITRE 2012; O'Brien MP 2012).

Figure 1.2 shows the current CSG exploration and production areas in NSW and Queensland.

Figure 1.2 Australian basins with coal seam gas potential



Source: (DRET, GA *et al.* 2012, p. 37).

Strengthening decision making on new CSG and coal mining developments

In the context of growing CSG activity in Queensland and exploration in NSW, communities have expressed concerns about potential environmental impacts of new developments. These include concern over the volume of water produced as a by-product of CSG extraction and the possible contamination of fresh water aquifers.

State and Territory governments are primarily responsible for the regulation and licensing of the coal seam gas and coal mining industries. The role of the Commonwealth Government in regulating coal seam gas and coal mining proposals focuses on proposed projects which could have a significant impact on matters protected by the *Environment Protection and Biodiversity Conservation Act 1999* [Cwlth]. This includes matters of national environmental significance, actions involving the Commonwealth and actions on Commonwealth land (IIESC 2012b).

The National Partnership aims to 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 (COAG 2012, cl. 10).

The Commonwealth Government is providing \$150 million to establish an Independent Expert Scientific Committee and fund scientific research on the potential water-related impacts of coal seam gas and large coal mining activities (IIESC 2012d).

Objectives and outcomes

The three priority areas for strengthening decision making are:

- 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
- substantially improving governments' collective scientific understanding of the actual and potential effects of CSG and coal mining developments on water resources
- ensuring that the best scientific information and expertise underpins all relevant regulatory processes and decisions (COAG 2012, cl. 4).

The National Partnership shows a mutual interest by participating governments in the long term health, quality and viability of Australia's water resources (COAG 2012, cl. 2).

The Parties to the National Partnership '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' (COAG 2012, cl.3).

Box 1.1 outlines the outcomes of this National Partnership.

Box 1.1 Outcomes of the National Partnership

This Agreement will facilitate the following outcomes:

- increased evidence supports strategic and regional scale management of CSG and large coal mining developments and their impact on water resources
- 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
- well informed communities have greater confidence in Commonwealth and State regulation of CSG and large coal mining development.

Source: (COAG 2012, cl. 10–11).

Roles and responsibilities of each party

The key role of the Commonwealth is ‘establishing and maintaining the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining (IESC) under the *Environment Protection and Biodiversity Conservation Act 1999* [Cwlth]’ (COAG 2012, cl. 14 (c)).

The key responsibilities of the States include amending relevant laws, regulations and guidelines as necessary so that the laws provide the following outcomes:

- CSG or coal mining developments that are likely to have a significant impact on water resources are referred to the IESC for advice
- decision makers on applications which have been referred to the IESC take account of the IESC’s advice in a transparent manner (COAG 2012, cl. 15).

Funding

The National Partnership provides for funding through ‘in-advance’ and ‘in-arrears’ project payments. The total funding is \$50 million from 2011–12 to 2013–14 (COAG 2012).

Table 1.1 Funding under the National Partnership

Funding component	Commonwealth funding to States	Timing
In-advance project payment	\$20 million	2011–12
In-arrears project payment	\$10 million (maximum available)	2012–13
In-arrears project payment	\$20 million (maximum available)	2013–14

Notes:

1. 50% of the \$50 million is allocated to States on an equal per capita basis. 25% is allocated based on the relative distribution of coal production. 25% is allocated according to the relative distribution of CSG development.

Source: (COAG 2012, Table 1).

1.2 Reporting on progress

Performance milestones and benchmark

Under the National Partnership, the Commonwealth has agreed to meet one milestone and the States have agreed to meet two milestones and one benchmark. Box 1.2 outlines the milestones and benchmark.

Box 1.2 National Partnership on Coal Seam Gas and Large Coal Mining Development: performance milestones and benchmark

Commonwealth milestone

By 1 July 2012 the Commonwealth will establish the IESC.

State milestones

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.

By 30 March 2013 the States will amend relevant legislation, regulations and guidelines in accordance with clause 15 (role of the States).

State 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.

Source: (COAG 2012, cl. 18–19).

Assessment approach

Our role is to independently assess the degree to which the Commonwealth and participating States have met agreed milestones and the benchmark (COAG 2012, cl. 22). We do not make recommendations on whether payments are to be made under the National Partnership.

We will report within three months of receiving reports from governments (not counting January). This includes one month for the council to consult with governments on a draft report.

Our performance assessments draw on a range of inputs, including:

- independent research on the relevant activities of governments, based on publicly available information
- detailed progress reports and formal comments provided by governments
- additional information we request from governments to assist the assessment process (such information is treated as an addendum to government progress reports).

For this report, we assess the progress governments have made in achieving their milestones up to the date they reported on progress (30 October 2012). Progress since 30 October 2012 is included in an update on milestones—published with this report.

Box 1.3 explains how we show progress in the assessment tables.

Box 1.3 Explanation of milestone progress status and risk status ratings

The progress status and risk status tables use a green–amber–red colour scheme.



Progress is rated **green** if, in the council's assessment, a milestone has been fully or largely completed on time.

Risk is rated **green** if the council has not identified any significant risks to future milestones or benchmark being achieved.



Progress is rated **amber** if, in the council's assessment, a milestone has been only partially completed or completed late, but within the reporting period.

Risk is rated **amber** if the council has identified a risk of delay to the current or future milestones or benchmark being achieved.



Progress is rated **red** if, in the council's assessment, a milestone has not been completed.

Risk is rated **red** if the council has identified a substantial risk to a future milestone or benchmark being achieved.

Risk assessment

We conclude the sections on progress with a risk assessment. We assess whether there are any risks to governments achieving any outstanding milestones or future milestones.

1.3 Outline of report

In Chapter 2 we assess the progress of the Commonwealth Government against its milestone.

In Chapter 3 we assess the progress of the State governments against the State milestones.

In Chapter 4 we outline two lessons on improving the performance reporting framework.

There are also five appendices:

- Appendix A outlines our method of assessment
- Appendix B covers State protocols for project referral to the IESC
- Appendix C covers the Interim IESC
- Appendix D lists the references used in this report
- Appendix E lists the tables, figures and boxes used in this report.

Chapter 2. Assessment: Commonwealth

Key Points

Government	Progress status	Risk status
Commonwealth	Milestone partially completed	Delayed

Commonwealth milestone

By **1 July 2012** the Commonwealth will establish the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC).

Progress assessment

The Commonwealth had partially completed this milestone by 30 October 2012.

The Commonwealth established an interim committee on 20 December 2011. The interim committee met seven times from January to July 2012 and publicly advised on 14 projects.

The Commonwealth introduced legislation to establish the committee on 22 March 2012. The legislation received assent on 24 October 2012. However, the Commonwealth had not formally established the committee by 30 October 2012.

The Commonwealth advised that it will be able to appoint the Chair and members of the statutory committee following proclamation of the legislation.

Risk assessment

Although it will be late, we have not identified any significant risks to the Commonwealth achieving this milestone.

2.1 Commonwealth milestone

There is one milestone for the Commonwealth for the first assessment report.

Box 2.1 Commonwealth milestone

By **1 July 2012** the Commonwealth will establish the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC).

Source: (COAG 2012, cl. 14, 18).

The purpose of the IESC is 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 (COAG 2012, Schedule 1).

2.2 Progress report and assessment

The Interim Independent Expert Scientific Committee

On 20 December 2011, the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke MP, appointed an Interim Committee to operate until governments agreed the National Partnership and appointed a permanent committee. The Minister announced the establishment of the Interim Committee on 27 January 2012 (Burke MP 2012).

The terms of reference set out that the Commonwealth Minister will determine the composition of the Interim Committee. The Interim Committee, comprising four to six members, will operate only until the committee has been established (IESC 2012e).

By 30 October 2012, the Interim Committee had met seven times and held two online meetings. It publicly advised on 14 projects. It has advised on nine further projects but the advice has not yet been published and it has received requests for advice for a further six projects. The Interim Committee also identified six initial research themes and has overseen the initial stages of the bioregional assessment program (IESC 2012c).

The Interim Committee drafted Information Guidelines to provide the signatory States with guidance on the supporting information the committee would find useful in considering proposals (Commonwealth Government 2012).

Appendix C provides more information on the Interim IESC.

Legislation to establish the Independent Expert Scientific Committee

On 22 March 2012, Minister Burke introduced the *Environment Protection and Biodiversity Conservation (Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development) Amendment Bill 2012* (the Bill) to the House of Representatives (Parliament of Australia 2012).

The Bill passed both houses of Parliament and subsequently received assent on 24 October 2012 (Parliament of Australia 2012).

The law amends the *Environment Protection and Biodiversity Conservation Act 1999* [Cwlth] (EPBC Act) to allow for the establishment of the IESC as a statutory body. The law also amends the EPBC Act to require the Commonwealth Environment Minister to seek the committee's advice, and to take account of that advice under specified circumstances.

The committee must provide its scientific advice within 2 months of a request by the Environment Minister or by an appropriate minister of a State or Territory that is a signatory to the National Partnership.

The committee's role is advisory only and it has no responsibility for issuing approvals for projects or recommending whether a project should or should not be approved.

To improve community confidence and ensure future decision makers have access to the latest scientific information, it is intended that all the committee's scientific advice will be made publicly available.

The Commonwealth advised that it expected proclamation to occur in November 2012. It will be able to appoint the Chair and members of the statutory committee following proclamation.

Progress assessment

The Commonwealth had partially completed this milestone by 30 October 2012.

Risk assessment

Although it will be late, we have not identified any significant risks to the Commonwealth achieving this milestone.

Chapter 3. Assessment: States

Key Points

Government	Progress status	Risk status
NSW	Milestone not completed	Milestones at risk
Victoria	Milestone completed	No significant risks identified
Queensland	Milestone completed	No significant risks identified
South Australia	Milestone partially completed	No significant risks identified

State milestone

By **30 September 2012** each State will publish a protocol that describes how they will decide which project applications should be referred to the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC) for advice in accordance with the terms of this agreement.

NSW

NSW had not completed the milestone by 30 October 2012.

The NSW and Commonwealth Governments have not agreed on NSW's draft protocol. It remains unclear how NSW will decide which projects to refer to the IESC for advice outside of land it has identified as 'Strategic Agricultural Land'.

Victoria

Victoria completed the milestone on 30 September 2012.

We have not identified any significant risks to Victoria achieving the future milestones.

Queensland

Queensland completed the milestone on 30 September 2012.

We have not identified any significant risks to Queensland achieving the future milestones.

South Australia

South Australia had partially completed the milestone by 30 October 2012.

We have not identified any significant risks to South Australia achieving this milestone or future milestones.

3.1 State milestones

Box 3.1 sets out the two milestones and one benchmark for States under the National Partnership.

We assess the 30 September 2012 milestone in this report.

Box 3.1 State milestones and benchmark

By 30 September 2012

By 30 September 2012 each State will publish a protocol that describes how they will decide which project applications should be referred to the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC) for advice in accordance with the terms of this agreement.

By 31 March 2013

By 31 March 2013 the States will amend relevant legislation, regulations and guidelines in accordance with clause 15.

Period between publication of protocols and effecting legislative amendment

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 development that are likely to have a significant impact on water resources to the IESC for advice.

Source: (COAG 2012, cl. 15, 18, 19).

3.2 Assessment: NSW

Government	Progress status	Risk status
NSW	Milestone not completed	Milestones at risk

NSW protocol for referral of projects to the IESC

On 7 March 2012, NSW signed the National Partnership.

In September 2012, the NSW Government announced the Strategic Regional Land Use Policy and the Aquifer Interference Policy. These two policies provide the framework for managing the effects of coal seam gas and large coal mining projects in NSW. The NSW Government advised that its protocol for referring projects to the IESC will draw substantially from these two policies (NSW Government 2012).

These policies are available at: www.nsw.gov.au/strategicregionallanduse

The NSW Government reported that it proposed a draft protocol to the Commonwealth on 27 September 2012. It entered into negotiations with the Commonwealth in order to finalise a protocol which would be acceptable to both parties.

Agreement had not been reached and NSW had not published a protocol for project referral by 30 October 2012.

Progress assessment

NSW had not completed this milestone by 30 October 2012.

Risk assessment

The Commonwealth and NSW Governments have not reached agreement on the content of the NSW protocol for project referral.

This delay may defer the provision of project applications to the IESC for advice until the protocol is published. We will report on this in our next assessment report.

The delay will also affect the period to which the benchmark to refer all project applications to the IESC for advice before amending legislation, regulations and guidelines applies.

The Strategic Regional Land Use Policy provides some guidance on how NSW will use a 'gateway' process to refer projects to the IESC. We have not identified any risks to NSW amending legislation, regulations and guidelines in line with this Policy.

However, it remains unclear how NSW will decide which projects to refer to the IESC for advice outside of land it has identified as 'Strategic Agricultural Land'.

3.3 Assessment: Victoria

Government	Progress status	Risk status
Victoria	Milestone completed	No significant risks identified

Victorian protocol for referral of projects to the IESC

On 5 June 2012, Victoria signed the National Partnership.

Victoria's protocol for project referral commenced on 30 September 2012.

In brief, the protocol requires the Victorian Department of Planning and Community Development to seek advice from the IESC for any project proposing to extract coal seam gas or to develop or to expand a coal mine that:

- could have a significant impact on water resources
- requires an Environmental Effects Statement under the *Environment Effects Act 1978* (Vic) (Victorian Government 2012).

Victoria's protocol is publicly available at:

www.dpcd.vic.gov.au/planning/environment-assessment/useful-documents

Appendix B sets out Victoria's protocol for project referral in further detail.

Progress assessment

Victoria has completed this milestone.

Risk assessment

Victoria did not report any risks to amending legislation, regulations and/or guidelines where necessary by 31 March 2013.

Victoria did not report any risks to providing the IESC with all relevant project applications in the period in between the publication of protocols and the amendment of laws, regulations and/or guidelines.

Victoria reported that no projects meeting the criteria have sought approvals in Victoria since the National Partnership was signed. Accordingly as at 30 October 2012, Victoria had not referred any projects to the IESC.

We have not identified any risks to Victoria achieving future milestones.

3.4 Assessment: Queensland

Government	Progress status	Risk status
Queensland	Milestone completed	No significant risks identified

Queensland protocol for referral of projects to the IESC

On 14 February 2012, Queensland signed the National Partnership.

Queensland's protocol for project referral commenced on 1 October 2012.

In brief, the protocol requires Queensland government officers to refer a proposal if it is:

- a 'project application' (that it requires an Environmental Impact Statement (EIS))
- 'likely' to have a 'significant impact on water resources'.

This protocol will be applied to all proposals for which an EIS evaluation/assessment report has not been completed. In considering a referral to the IESC, the decision maker should also consider the extent to which assessment has been completed for those projects for which the EIS evaluation/assessment report is near the final stages of preparation prior to 1 January 2013 (Queensland Government 2012).

Based on advice from the Queensland Government, this transitional arrangement is unlikely to apply to any projects between 30 September 2012 and 1 January 2013.

Appendix B sets out Queensland's protocol for project referral in further detail.

Queensland's protocol is publicly available at:

www.dsdip.qld.gov.au/assessments-and-approvals/significant-projects.html

Progress assessment

Queensland has completed this milestone.

Risk assessment

Queensland did not report any risks to amending legislation, regulations and/or guidelines where necessary by 31 March 2013.

Queensland did not report any risks to providing the IESC with all relevant project applications in the period in between the publication of protocols and the amendment of laws, regulations and/or guidelines.

As at 30 October 2012, Queensland had not referred any projects to the IESC.

We have not identified any risks to Queensland achieving future milestones.

3.5 Assessment: South Australia

Government	Progress status	Risk status
South Australia	Milestone partially completed	No significant risks identified

South Australian protocol for referral of projects to the IESC

On 22 March 2012, South Australia signed the National Partnership.

On 24 September 2012, the Government of South Australia approved the *South Australian Protocol for the Referral of Project Applications to the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development* (the South Australian protocol).

The South Australian Acting Minister for Water and the River Murray and the South Australian Minister for Mineral Resources and Energy both signed the South Australian protocol, forming public policy for all new coal seam gas or large coal mining projects.

On 27 September 2012, the Premier of South Australia wrote to the Prime Minister inviting the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities to co-sign the South Australian protocol (South Australian Government 2012).

Although not required under the National Partnership, South Australia advised it was awaiting signature of the protocol by the Commonwealth Minister before publishing the final version (South Australian Government 2012).

In brief, the protocol requires the relevant South Australian regulatory authority to refer a proposal to the IESC for advice if it determines that it is likely that the proposed development will result in any potential significant impacts to water resources occurring. Appendix B sets out South Australia's protocol for project referral in further detail.

Progress assessment

South Australia had partially completed this milestone by 30 October 2012.

Although South Australia's protocol for project referral had commenced, it was not publicly available on the South Australian Government's website.

Risk assessment

South Australia did not report any risks to amending legislation, regulations and/or guidelines where necessary by 31 March 2013.

South Australia did not report any risks to providing the IESC with all relevant project applications in the period in between the publication of protocols and making the amendments.

As at 30 October 2012, South Australia had not referred any projects to the IESC.

We have not identified any risks to South Australia achieving this or future milestones.

Chapter 4. Improving performance reporting

4.1 Challenges for assessing performance

This National Partnership provides two important lessons for the design of reporting arrangements for future National Partnerships. We have summarised these below.

Allocating responsibility

Clause 18(b) of the National Partnership sets out the first milestone for the States:

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 (COAG 2012, cl. 18(b)).

This milestone does not reflect how the protocol process worked. It attributes responsibility solely to the States whereas the Commonwealth has been involved in settling the content of the protocols. Some States waited until the Commonwealth confirmed the protocols were consistent with the terms of the National Partnership before publishing.

Clause 14(b) sets out one of the roles and responsibilities of the Commonwealth as:

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 (COAG 2012, cl. 14(b)).

This clause demonstrates an intent for the Commonwealth to work with the States to ensure the protocols are consistent with the terms of the National Partnership and are delivered on time.

Allocating responsibility for this milestone to the States alone does not take account of the practical role of the Commonwealth.

Clearly specifying timeframes for performance benchmarks

The States agreed to meet one benchmark under the National Partnership:

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 (COAG 2012, cl. 19).

This benchmark is unclear on the appropriate treatment where the publication of protocols occurred after 30 September 2012. For instance, if a government did not publish its protocol until 1 February 2013, this benchmark would only be assessed from 1 February 2013 until the amendment of laws, regulations and guidelines.

This benchmark seems to be structured inconsistently with the apparent intent of the agreement. The reporting arrangements section of the National Partnership sets out that States report to the COAG Reform Council by 30 April 2013 on:

their performance in referring relevant project applications to the IESC for advice in the period between 1 October 2012 and effecting legislative amendment (COAG 2012, cl 20 (b) ii).

This discrepancy leaves the council in a position where States will report on their performance in referring project applications to the IESC for advice from 1 October 2012, but the council will only assess performance in referring projects after protocols have been published.

For States that were late in publishing protocols, this will reduce the timeframe during which the council will be able to assess the performance benchmark.

4.2 Recommendation for future National Partnerships

Given the experience of this National Partnership, it is important that future National Partnerships give greater consideration to the practical operation of the agreement in setting milestones and performance benchmarks.

We have made a recommendation to COAG for future National Partnerships based on these lessons.

Box 4.1 Recommendation

The COAG Reform Council recommends that for future National Partnerships, COAG:

- ensure that where responsibility for a milestone is shared, this is reflected in the allocation of milestones in the agreement
- ensure consistency between future milestones or benchmarks and any current milestones or benchmarks they are dependent upon.

Appendix A. Our method

This appendix describes our reporting method.

Our publication timeframes and consultation

For our National Agreement reports, we report three months after receiving performance information (not including January). We have adopted this approach for reporting on the *National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development* (the National Partnership).

Governments' performance information was due to us on 30 October 2012 and we have reported to COAG on 28 February 2013.

On 7 December 2012, we released the draft report for one month of consultation (not including January), as required by the Intergovernmental Agreement on Federal Financial Relations. We also held bilateral meetings with each participating government during this period to discuss the draft report.

Reporting period and interpreting deadlines

Our first report includes our assessment of activity on progress against milestones due to be completed by 1 July 2012 (the Commonwealth) and by 30 September 2012 (the States). Our deadline for governments to report their progress was 30 October 2012, and for our progress assessment we have not considered any activity that may have occurred after this deadline.

Update on milestones

In the event governments have made significant progress against incomplete milestones covered in this report, we may release a supplementary update at the same time as we publicly release the report. The update will note any substantive progress against incomplete milestones since the reporting cut-off date of 30 October 2012.

Appendix B. Protocols for project referral

This appendix sets out the protocols for project referral from the States to the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC).

Box B.1 sets out the key elements of Victoria's protocol for project referral.

Box B.1 Victoria's protocol for project referral to the IESC

Any relevant project proposal which seeks approval to extract coal seam gas, develop a new coal mine or expand an existing approved area for coal mining that could have a significant impact on water resources must be referred to the Minister for Planning for a decision on the need for an Environmental Effects Statement (EES).

The EES process provides for the analysis of potential effects on environmental assets and the means of avoiding, minimising and managing adverse effects. It also includes public involvement and the opportunity for an integrated response to a proposal.

The Minister will require an EES for a relevant project that the Minister considers could significantly affect the beneficial uses of water resources.

The scoping requirements for an EES will be informed by the information guidelines issued by the IESC.

The Department of Planning and Community Development will seek advice from the IESC for any project proposing to extract coal seam gas or to develop or to expand a coal mine that:

- could have a significant impact on water resources; and
- requires an EES under the *Environment Effects Act 1978* (Vic).

This advice will be technical advice on studies and environmental management measures relating to direct and indirect effects on water resources as well as associated beneficial uses that form part of either draft or final EES documentation prepared by the proponent.

The Minister is to:

- have regard to advice received from the IESC in preparing his/her assessment of the environmental effects of a relevant project
- provide reasons for relevant findings and recommendations in his/her assessment in the context of the IESC's advice.

The Department will make public any advice received from the IESC in response to draft or final EES documentation. It will do this either during or as soon as possible after the period of public exhibition for the EES. Any further advice from the IESC that is considered by the Minister in preparing his/her assessment is to be released with the Minister's assessment.

Source: (DPCD 2012a; 2012b).

Box B.2 sets out the key elements of Queensland's protocol for project referral.

Box B.2 Queensland's protocol for project referral to the IESC

The protocol is to be used by relevant Queensland government officers to determine whether a proposed large coal mining or coal seam gas development ('a proposal') should be referred to the IESC for advice.

In deciding whether to refer a proposal, decision-makers should be satisfied that the proposal is both a 'project application' (that it requires an Environmental Impact Statement (EIS)) and that it is 'likely' to have a 'significant impact on water resources'.

The protocol defines the terms 'project application', 'likely' and 'significant impact'.

This protocol will be applied to all proposals for which an EIS evaluation/assessment report has not been completed. However, in considering a referral to the IESC, the decision-maker should also consider the extent to which assessment has been completed for those projects for which the EIS evaluation/assessment report is near the final stages of preparation prior to 1 January 2013.

In the case of existing coal seam gas projects, the decision maker should recognise the importance and scope of existing approvals, as well as the potential impacts of a proposed change to an existing activity, in deciding whether to refer such a proposal.

Referrals to the IESC of expanding coal seam gas projects would be intended to capture development of new gas fields or significant increases in the extent or intensity of existing coal seam gas fields.

In general, formal referral by the Queensland Government to the IESC will occur immediately prior to or during the publication of the EIS.

Following the revision of generic EIS terms of reference and guidelines documents, referral of proposals to the IESC will, in almost all circumstances, consist of:

- a simple notification to the IESC at the time of release of the draft terms of reference that a new proposal will be referred to it for advice in the future
- a formal referral immediately prior to or during the publication of the EIS.

Source: (DSDIP 2012).

Box B.3 sets out the key elements of South Australia's protocol for project referral.

Box B.3 South Australia's protocol for project referral to the IESC

This protocol aims to provide a clear process for relevant authorities in South Australia to determine if Coal Seam Gas and/or large coal mining development project applications are to be referred to the IESC for advice in accordance with the National Partnership.

The protocol also aims to minimise the duplication of Commonwealth and State government processes by ensuring that one project application needs to be submitted by project proponents for consideration by the relevant South Australian Government authority and the IESC, providing a streamlined and timely process for project proponents.

The South Australian Department of Environment Water and Natural Resources (DEWNR) will consider project applications for CSG and/or large coal mining developments to determine if it is likely that as a result of the project (in its own right, or cumulatively with other actions) potential significant impacts on water resources will occur.

The assessment of environmental impacts identifies all of the potential and actual risks to the environment posed by the proposed development. It assesses the level of each risk using a risk evaluation methodology.

DEWNR will refer project applications for developments it determines are likely to have a potential significant impact on water resources to the IESC for advice in a manner consistent with the *checklist for advice* outlined in the *Information Guidelines*, including providing all relevant assessment documentation gathered/prepared by the relevant authority.

DEWNR will include the IESC's advice with the final assessment report. DEWNR provides both the advice and report to the responsible minister to make a decision on the proposal.

Source: (South Australian Government 2012).

Appendix C. The Interim Independent Expert Scientific Committee

This appendix provides further information on the Interim Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (Interim Committee).

The Interim Independent Expert Scientific Committee

On 27 January 2012, the Minister for Sustainability, Environment, Population, Water and Communities, the Hon Tony Burke MP, announced the establishment of the Interim Committee and its members (Burke MP 2012). The Interim Committee will operate only until such time as the IESC has been established. Box C.1 sets out the Interim Committee members.

Box C.1 Interim IESC members

Professor Craig Simmons (Chair)

Professor Simmons is a professor of hydrogeology at Flinders University and director of the National Centre for Groundwater Research and Training.

Professor John Langford

Professor Langford served as chief executive of the Rural Water Commission from 1989 to 1994. He is a Fellow, Australian Academy of Technological Sciences and Engineering and a Fellow, Institution of Engineers, Australia.

Professor Jane Coram

Professor Coram has a Master of Hydrogeology, is a groundwater expert at Geoscience Australia and she is a current member of the Coal Seam Gas Water Management Panel.

Associate Professor David Laurence

Associate Professor Laurence has a PhD in mining engineering and an MBA in international business. He is inaugural director of the Australian Centre for Sustainable Mining Practices.

Professor Chris Moran

Professor Moran is the director of the Sustainable Minerals Institute at the University of Queensland, interim director of the University of Queensland Centre for Coal Seam Gas and a current member of the Coal Seam Gas Water Management Panel.

Emeritus Professor Peter G Flood

Emeritus Professor Flood is a geologist with 44 years experience in basin studies including within the Gunnedah, Bowen and Surat Basins. He has been a consultant to the Commonwealth, State and Territory governments and the mining, oil and gas industries and has studied the impacts of mining and coal seam gas extraction on water resources.

Source: (IIESC 2012b).

The Office of Water Science, a dedicated unit established in the Department of Sustainability, Environment, Water, Population and Communities supports the Interim Committee with secretariat services. The Interim Committee will work closely with the Office of Water Science until a handover to the new statutory committee is complete.

Interim Independent Expert Scientific Committee research program

The Interim Committee has determined six priority themes for research designed to tackle critical gaps in scientific understanding about the potential water-related impacts of coal seam gas and/or large coal mining developments to assist in regulatory decisions (Box C.2).

Box C.2 Interim Committee priority themes for research

1. **Planning and management:** to improve the ability to harness the existing knowledge base, hydro-geologic data and improve modelling capabilities.
2. **Aquifer contamination:** to target water quality of aquifers, particularly issues around the contamination of aquifers through the introduction of chemicals used in hydraulic fracturing and the movement of saline groundwater.
3. **Aquifer integrity:** to focus on the physical characteristics of, and impacts on, the surrounding geological formations of aquifers; particularly issues around fracturing and long-wall mining, including subsidence, and maintaining underground and surface hydro-geologic stability across aquifers.
4. **Aquatic health:** to investigate issues around environmental integrity, the disruption and contamination of surface ecological systems (rivers, significant water assets, and water-dependent ecosystems) from activities associated with the exploration, development, operation and/or decommissioning of coal seam gas or coal mines.
5. **Health and industry:** to improve the current understandings of risks, impacts and opportunities of using co-produced and mine water for other uses such as agricultural uses, drinking water and irrigation. This theme will also investigate issues around the integrity of wells; including installation, operation, decommissioning; and management of processed water, associated salts and heavy metals, and hydraulic fracturing standards.
6. **Groundwater and surface water processes:** focusing on the hydraulic properties of aquifer geology, including groundwater flows, pressures, heights, water quality and fluxes.

Source: (IIESC 2012g).

Interim Independent Expert Scientific Committee bioregional assessments

The Interim Committee has a role to advise on bioregional assessments in areas where coal seam gas and/or large coal mining developments are underway or planned. The bioregional assessments will analyse the ecology, hydrology and geology of an area to assess the potential risks to water resources as a result of the impacts of coal seam gas or large coal mining developments. These assessments will provide advice to governments about the water related resources and risks on a region-wide, rather than project specific basis.

Box C.3 outlines the initial areas for bioregional assessments.

Box C.3 Interim Committee priority regions for bioregional assessments

1. **Queensland:** Lake Eyre Basin, which is underlain by the Galilee, Cooper and Pedirka coal bearing basins.
2. **NSW and Queensland:** Northern Inland Catchments, incorporating the Namoi, Border Rivers-Gwydir, Maranoa-Balonne and Macquarie-Castlereagh coal bearing basins. This area is underlain by the Gunnedah and Surat basins.
3. **NSW:** Northern Sydney Basin and the Gloucester Basin, encompassing the Hunter Central Rivers and Hawkesbury-Nepean natural resource management regions.
4. **NSW:** Southern Sydney Basin, encompassing the Southern Rivers, Sydney Metro and Hawkesbury-Nepean natural resource management regions.
5. **Queensland:** Clarence-Moreton Basin, encompassing the South East Queensland and Northern Rivers natural resource management regions.

Source: (IIESC 2012a).

Interim Independent Expert Scientific Committee project advice

The Commonwealth Government has requested advice from the Interim Committee on a range of projects that are currently being considered under chapter four of the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth). The National Partnership requires participating State and Territory governments to seek advice from the Interim Committee on projects that are likely to have a significant impact on water resources.

As at 30 October 2012, the Commonwealth has provided the following projects to the Interim Committee for advice.

Table C.1 Project advice as at 30 October 2012

Project	Advice status
NSW projects	
Gloucester Gas Project	being considered
Boggabri Coal Mine Extension	being considered
Centennial Coal Clarence Expansion	advice provided
Warkworth Mine Extension	advice provided
Dart Energy Coal Seam Gas Exploration	advice provided
Apex Illawarra Coal Seam Gas Exploration Drilling and Gas Monitoring Program	advice provided
Mount Pleasant Project—Muswellbrook	advice provided
Centennial Coal Mine Expansion—Springvale and Angus Place	advice provided

Project	Advice status
Queensland projects	
Stanmore 'The Range' Open Cut Coal Mine	being considered
Newland Coal Extension Project	being considered
Arrow Bowen Gas Project	advice provided
Santos Future Gas Supply Area Project	advice provided
Middlemount Coal Mine	advice provided
Anglo Coal (Foxleigh) Pty Ltd—Foxleigh Coal Mine Extension	being considered
Hancock Prospecting Pty Ltd—Alpha Coal Project—Mine and Rail Development	advice provided
Aquila Resources Ltd—Blackwater Washpool Coal	being considered
Adani Resources Ltd—Carmichael Coal Mine and Rail Project	being considered
AMCI (Alpha) Pty Ltd—South Galilee Coal Project	being considered
Taroom Coal Project, Surat Basin	advice provided
Collingwood Coal Project, Surat Basin	advice provided
Codrilla Coal Mine, south east of Moranbah	advice provided
Sonoma Coal Mine Expansion, Collinsville	being considered

Notes:

1. All requests for project advice to 30 October 2012 were from the Commonwealth.

Source: (IIESC 2012f).

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