

SOUTH AUSTRALIAN PROTOCOL FOR THE REFERRAL OF PROJECT APPLICATIONS TO THE INDEPENDENT EXPERT SCIENTIFIC COMMITTEE ON COAL SEAM GAS AND LARGE COAL MINING DEVELOPMENT

1. PREAMBLE

- 1.1. On 22 March 2012, the State of South Australia entered into a *National Partnership Agreement on Coal Seam Gas and Large Coal Mining Development* (the Agreement) with the Commonwealth of Australia and the States of New South Wales, Victoria and Queensland.
- 1.2. The signatories to the Agreement recognise that they have a mutual interest in the long term health, quality and viability of Australia's water resources, as well as 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.
- 1.3. The signatories also acknowledge public concerns about the actual and potential impacts of CSG and large coal mining activities on water resources and agree that there is a critical need to strengthen the science that underpins the regulation of these industries.
- 1.4. The objective of the Agreement is 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.
- 1.5. Under the Agreement the Commonwealth of Australia has established the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC) to contribute towards the achievement the objective outlined in 1.4.

2. FORMALITIES

- 2.1. The provisions of this Protocol are to be read in conjunction with the Agreement and its schedules.
- 2.2. This Protocol commenced on 1 October 2012 and will remain in place until terminated.

3. PURPOSE

- 3.1. Under Clause 15 of the Agreement, South Australia is responsible for seeking advice from the IESC at appropriate stages of the approvals process for CSG and large coal mining development proposals that are likely to have a significant impact on water resources and on which the State is intending to make a decision.
- 3.2. The purpose of this Protocol is to outline the process that will be used to determine if a CSG and/or large coal mining development project application will be referred by the State of South Australia to the IESC for advice and how this referral will occur, in accordance with the Agreement.

4. OBJECTIVES

4.1. Implementation of this Protocol will:

- 4.1.1. Provide a clear process for relevant authorities in South Australia to determine if CSG and/or large coal mining development project applications are to be referred to the IESC for advice in accordance with the Agreement;
- 4.1.2. Help to ensure that decisions made on the approval of CSG and/or large coal mining developments that are likely to have a potential significant impact on water resources in South Australia are based on rigorous and independent scientific evidence;
- 4.1.3. Add to the collective scientific understanding in Australia of the impacts of CSG and large coal mining developments on water resources, informing communities and improving confidence in regulation of these developments; and,
- 4.1.4. Minimise the duplication of Australian and State government processes by ensuring that one project application can 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.

5. ROLES AND RESPONSIBILITIES

5.1. The IESC will:

- 5.1.1. Through the *IESC Information Guidelines*, clearly define the *information requirements for IESC advice*, provide a *checklist for advice* outlining how the IESC would prefer requests for advice from regulators to be presented, and outline the *nature of advice from IESC* including the issues that the advice provided will address (but not be limited to).
- 5.1.2. Consider project applications referred to it and provide scientific advice on the proposed CSG and/or large coal mining development (addressing, but not limited to the issues listed in *nature of advice from IESC* section of the *IESC Information Guidelines*) to the relevant authority within agreed timeframes consistent with statutory requirements.

5.2. The relevant authority will:

- 5.2.1. Make every effort to inform, engage and consult with proponents of CSG and/or large coal mining developments to ensure that potential assessments of environmental impacts submitted as part of project applications meet the *information requirements for IESC advice* outlined in the *IESC Information Guidelines*, to allow for an informed assessment of the impacts on water resources by both the relevant authority and the IESC if required.

- 5.2.2. 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.
- 5.2.3. Refer project applications to the IESC for advice in accordance with clause 7 of this agreement, in a manner consistent with the *checklist for advice* outlined in the *IESC Information Guidelines*, including providing all relevant assessment documentation gathered/prepared by the relevant authority.
- 5.2.4. Consider advice provided by the IESC in preparing assessment reports that inform decisions as to whether proposed developments are approved, and under what conditions, making specific reference to advice provided by the IESC.

6. REGULATORY FRAMEWORK

- 6.1. In South Australia CSG and coal mining developments are assessed and considered for approval through one of the following regulatory functions:
 - 6.1.1. A Mining Lease, pursuant to the *Mining Act 1971* (for coal mining); or
 - 6.1.2. A Statement of Environmental Objectives, pursuant to the *Petroleum and Geothermal Energy Act 2000* (for CSG).
- 6.2. As part of these regulatory functions, a project application is submitted to the relevant authority for consideration, which includes an assessment of environmental impacts that outlines the potential and actual environmental impacts (including impacts on the natural environment) of the proposed CSG or coal mining development. This may include the preparation of an Environmental Impact Statement under the *Development Act 1993*.
- 6.3. The assessment of environmental impacts identifies all of the potential and actual risks to the environment posed by the proposed development, assessing the level of each risk using a risk evaluation methodology.
- 6.4. The relevant authority considers the assessment of environmental impacts (including identified risks) in order to complete an assessment report that informs decision makers as to whether the development should be approved, and under what conditions.

7. PROTOCOL

- 7.1. When a project application for CSG and/or coal mining development is considered by the relevant authority as part of the regulatory functions outlined in 6.1, the assessment of environmental impacts will identify all potential and actual risks posed by the proposed development to *water resources*.
- 7.2. The relevant authority will evaluate the risks to water resources (using a risk evaluation methodology) to determine if the project is likely (individually or cumulatively with other actions) to have a *significant impact on water resources*.

- 7.3. The relevant authority will refer the following project applications to the IESC for advice:
 - 7.3.1. All coal seam gas project applications.
 - 7.3.2. A coal mining project application, if any relevant authority involved in considering the application determines that it is likely that the proposed development will have a *significant impact on water resources*.
 - 7.3.3. All project applications which require the preparation of an Environmental Impact Statement under Part 8 of the *Development Act 1993*.
- 7.4. The relevant authority may refer a project application to the IESC at any time. The referral should be made at least two months prior to the deadline for decision-making on the application, to provide for the IESC assessment timeframe outlined in the *Environment Protection and Biodiversity Conservation Act 1999*. In general:
 - 7.4.1. Coal seam gas project applications will be referred to the IESC for advice when a draft Environmental Impact Report and Statement of Environmental Objectives is available;
 - 7.4.2. Coal mining project applications will be referred during agency consultation on the mining lease proposal; and
 - 7.4.3. Project applications triggering Part 8 of the *Development Act 1993* will be referred when a draft Environmental Impact Statement is available.
- 7.5. The relevant authority will refer project applications to the IESC in a manner consistent with the *IESC Information Guidelines*.

8. GOVERNANCE ARRANGEMENTS

- 8.1. This Protocol may be amended at any time by agreement in writing by the Minister for Water and the River Murray and the Minister for Mineral Resources and Energy.
- 8.2. Schedules to this Protocol may be appended, amended or removed at any time by agreement in writing by the Minister for Water and the River Murray and the Minister for Mineral Resources and Energy.

9. DEFINITIONS


- 9.1. In general, terms used in this Protocol have the same meaning as terms used in the Agreement.
- 9.2. *Relevant authority* means the South Australian Minister or government agency that, pursuant to the relevant legislation, considers a project application for a CSG and/or large coal mining development in order to make a decision as to whether the project should proceed and under what conditions.

- 9.3. *IESC Information Guidelines* means the guidelines made public by the IESC to fulfil clause 4 of *Schedule 1: Terms of Reference for the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining*.
- 9.4. *Likely*, in relation to the determination of it being *likely* that the proposed development will result in any of the potential significant impacts to water resources occurring, means that a potential significant impact on a water resource is a real, or not remote, chance or possibility.
- 9.5. *Significant impact on water resources* is caused by a single action or the cumulative impact of multiple actions which would directly or indirectly:
- 9.5.1. result in a substantial change in the quantity, quality or availability of surface or groundwater;
 - 9.5.2. substantially alter groundwater pressure and/or water table levels;
 - 9.5.3. alter the ecological character of a wetland that is State significant or a Ramsar wetland;
 - 9.5.4. divert or impound rivers or creeks or substantially alter drainage patterns;
 - 9.5.5. reduce biological diversity or change species composition;
 - 9.5.6. alter coastal processes, including sediment movement or accretion, or water circulation patterns;
 - 9.5.7. 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
 - 9.5.8. substantially increase demand for, or reduce the availability of water for human consumption.
- 9.6. *Water resources* means:
- 9.6.1. surface water or groundwater; or
 - 9.6.2. a watercourse, lake, wetland or aquifer (whether or not it currently has water in it); and
 - 9.6.3. 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).

10. AGREEMENT

10.1. It is agreed by signing this Protocol that it will be implemented as the process for referring project applications for CSG and/or large coal mining developments by the State of South Australia to the IESC for advice in accordance with the terms of the Agreement.

SIGNED BY:



..... Date: 30/4/13

The Honourable Ian Hunter MLC
Minister for Water and the River Murray
The State of South Australia



..... Date: 30/4/13

The Honourable Tom Koutsantonis MP
Minister for Mineral Resources and Energy
The State of South Australia