

Appendix 2

**Submission from the Hon. John Thwaites MP
Minister for Water
Government of Victoria**



Minister for Environment Minister for Water

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Senator Alan Eggleston
Chair
Senate Environment, Communications, Information Technology and the Arts Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600

Dear Senator Eggleston

NATIONAL WATER COMMISSION BILL

I am writing to express the significant concerns the Victorian Government has identified with the draft National Water Commission Bill (the Bill) currently being debated in the Commonwealth Parliament.

The Victorian Government does not believe the Bill reflects the spirit of cooperation which resulted in the signing of the National Water Initiative by the Council of Australian Governments (COAG) on 25 June 2004. In particular, the Victorian Government is concerned that the current draft of the Bill unduly constrains the independence of the National Water Commission. Key areas of concern relate to governance and accountability arrangements of the National Water commission.

Firstly, the Victorian Government considers it imperative that the National Water Commission provides advice and reports direct to COAG following consultation with the States and Territories, not report direct to the Prime Minister as is currently proposed. Requiring the National Water Commission to consult with States and Territories would recognise States and Territories' expertise and responsibilities for management of water resources. It would also assist States and Territories to implement the National Water Initiative.

Secondly, as there is significant public interest and investment in national water reforms, the Victorian Government believes all National Water Commission reports to COAG should be publicly available, as agreed by COAG and required by the National Water Initiative Intergovernmental Agreement.

Further comments on the draft Bill are set out in Attachment 1.

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The Victorian Government believes the establishment of a National Water Commission is a key first step to ensuring a coordinated and integrated approach to future water reforms across all jurisdictions. To ensure the momentum of water reforms continues, it is important that the legislation reflects the spirit of cooperation demonstrated by COAG in committing to the National Water Initiative.

To achieve this, the Victorian Government believes the Bill should be amended to reflect the key elements of the National Water Initiative.

Yours sincerely



JOHN THWAITES MP
Minister for Water

ATTACHMENT 1

National Water Commission Bill 2004

1. There is no provision for the Council of Australian Governments (COAG) or States and Territories to directly seek advice from the National Water Commission. The general functions of the National Water Commission are curtailed by the Commission providing advice only 'if requested to do so by the Minister'. COAG, States and Territories should be able to seek advice from the National Water Commission in relation to the implementation of the National Water Initiative.
2. The Bill severely compromises the foreshadowed independent advisory role of the National Water Commission. The proposed Government amendment of 30 November 2004 does not enable the National Water Commission to advise and make recommendations to COAG, other than on matters referred to in clause 7(1)(b), which is subject to the request of the Minister.
3. Clause 7(4) requires the National Water Commission to give all advice and make all recommendations, by giving the advice and recommendations to the Minister. This is inconsistent with the collegiate nature of the National Water Initiative. The proposed Government amendment to insert clause 7(4A) appears not to take precedence over the restrictions imposed on the Commission by clause 7(4).
4. The National Water Initiative Intergovernmental Agreement requires the National Water Commission to consider the views of stakeholders in preparing advice as required. This is not provided for in the Bill. The Bill should require the Commission to consult with the States and Territories before offering advice, and it should report the results of that advice to COAG.
5. The National Water Initiative Intergovernmental Agreement (clause 107) states that the National Water Commission reports to COAG will be publicly available. The Bill (clause 44) states that the National Water Commission may make some assessments available to the public only with the agreement of the Minister. This is inconsistent with the National Water Initiative.