The *ICRC Act (1997)* requires the ICRC *cl. 7 (b) to facilitate an appropriate balance between efficiency and environmental and social considerations*.

Under the *Territory-owned Corporations Act 1990*, Icon Water, besides being required by *cl.7 (1) (a) to operate at least as efficiently as any comparable business; and (b) to maximise the sustainable return to the Territory…..;* is also required *(c) to show a sense of social responsibility …..; and (d) ..to operate in accordance with the object of ecologically sustainable development.*

A clear and consistent approach.

However, as identified on page xxi of the Draft Report Tariff Review 2016, an amendment to the *ICRC Act cl.19L* in 2016, now focuses the ICRC "….*price direction on efficient investment in, and efficient operation of and use of regulated services..…".* It is not clear how these two clauses of the ICRC Act can be consistent; it may need a Queen's Counsel to mount the case for consistency! The ICRC now seems to base it's pricing on *cl.19L* rather than *cl. 7*.

Following the Millennium Drought, the water industry as a whole and the consumers demonstrated behaviour that suggested that the sustainable use of a limited resource is very important to them. This latest proposal by the ICRC will undo a lot of good work that took place over the last decade or so.

The intent of regulating a monopoly service provider such as Icon Water, in simple terms, is to make certain that Icon Water does not exhibit monopolistic behaviour on pricing and service delivery especially. But that operates within a framework that allows it to receive a reasonable return for its efforts in providing a service, recognising the risks, so that it can be a viable business. In addition, the consumer is incentivised to use a limited resource in a sustainable manner, to benefit the whole of society and future generations. If the above is acceptable, then what is being proposed by the ICRC is certainly not incentivising the consumer. In fact this proposal encourages increased water use behaviour.

This focus by the ICRC, is exemplified by the statement on page xiv "there is limited local or downstream environmental benefit to be gained from leaving an extra kilolitre of water in the ACT dams rather than consuming it".

It is true as the report goes on to say, that the ACT only uses a small percentage of our water (around 10%) and releases environmental flows sufficient to maintain aquatic ecosystems at current levels. However, to go from there to 'we should use more water' (it is disingenuous of the ICRC Commissioner to suggest that he doesn't have a position on whether consumers should use more water, Canberra Times 6/9/16), is clearly showing economics is the driving force of the ICRC draft report and the social and environmental aspects are only given token regard. In the event this approach is what Icon Water ends up being required to adhere to, it could very well be operating outside the intent of Clause 7 of the *Territory-owned Corporations Act 1990*. Pricing water at its marginal cost and the subsequent likely increased consumption, is also ignoring the history of the Millennium Drought as it impacted the ACT and the rest of Australia, the over use of water in the Murray Darling Basin, Perth's water supply crisis over several decades, etc.

Some corrections and comments on the Draft Report Tariff Review 2016:

page x:
The inclining block structure was not introduced in the Millennium Drought, but before that. To provide pricing signals to large water users, to encourage sustainable water use. Which it thankfully did, during the Millennium Drought, along with many other measures.
It should be noted, that the ICRC reduced the supply charge at the same time, against the preference of ACTEW.

The key projects to provide water security also included the arrangement with Snowy Hydro to transfer up to 10GL of water from Tantangara. This was a critical addition, as it provided access to a significant water resource from the Snowy Mountains, outside of the ACT.

Figure ES.4 should be retitled “water supplied”, not “dam releases”. As dam releases normally refers to environmental flow releases.

page xiii:
The statement “Icon Water is considering whether to mothball the Murrumbidgee to Googong pipeline on the basis that is unlikely to be required for sometime”, while correct, is misleading on two counts. Firstly, from an operational cost perspective, if an asset is unlikely to be used for several years, an assessment is done to see whether it is more cost effective to “mothball” it, or keep it in operational condition. This is only a short term cost management action, not a long term water security consideration. Secondly, analysis prior to the Millennium Drought indicated the ACT would probably not need to augment its water supply until around 2017. The Drought meant that the ACT did not meet its less than 5% time in water restrictions target over nearly 4 years (2006-2010). Models are only as good as the assumptions used. Hopefully we won’t need the pipeline and Tantangara transfer for many years, but in a warming climate, there is greater uncertainty in both water demand and water flows into our dams.

page xv:
The 200kL level was based on average household use. See Figure ES.6. It did not assume “low income or disadvantaged customers are low water users”. However, by the ICRC figures in the report, 60% of the people in those categories use less than 200kL. Financial support for the other 40% who use more than 200kL, should necessarily come from the ACT Government, or alternatively, the volume could be increased above 200kL, to assist more of the disadvantaged water users.

page xvi:
Drought pricing - is fully supported and long overdue. The subsequent price rises as demand reduced during the Millennium Drought, sent the opposite message to consumers than it should have, i.e. consumers reduced water use and so the price increased; instead of ,there is a water shortage, so the price increases.
Price elasticity of water - as shown by the ICRC analysis on page 41, in the period prior to water restrictions, the elasticity estimate was -0.31, much greater than the -0.11 to -0.19 in the previous inappropriate ICRC analysis.
However, even with drought pricing, temporary water restrictions would still most likely be required, as to achieve the 35% reduction required under stage 3 water restrictions, drought pricing increases would be unreasonably high.

The transition period of 10 years, if the new pricing structure is adopted, is welcomed. However, the new pricing structure is a retrograde step, if trying to achieve the *ICRC Act cl. 7* objectives, as discussed above.

page xx:
The Figure ES.7 does not show clearly that the major beneficiaries of the proposed ICRC pricing regime will be the large users. They will gain massive savings, which will be made up by increased costs to most residential and other small water users. This approach taken by the ICRC appears to go against the 'user pay' principle that provides the incentives for the consumer to manage water usage; which in turn leads to the sustainable use of a limited resource by society at large.

page xxii:
"The Commission's preference for Icon Water to take more responsibility for tariff structures and price levels moving forward" on the surface seems reasonable. However, it would be reliant on an experienced and effective pricing regulator to ensure that there was continuing pressure on the water utility to provide its services in line with *cl.17 of the TOC Act*. History with other regulators, shows that this is unlikely to be the case, if the pricing Regulator does not go through the extensive and exhaustive processes it currently does. The likely outcomes are either: ongoing price increases greater than inflation; or unsustainable price reductions based on philosophical approaches, rather than customer needs, e.g. the AER decisions last year with electricity.

Assuming the ICRC is in favour of light handed regulation, then a framework needs to be provided so that transparency for the community and sustainability for the utility as a business, is ensured.

In conclusion:
The ICRC has not provided any justification for it's proposed changes to the fixed charge and number of tiers, apart from economic efficiency, which if adopted, would mean the overall objectives of the ICRC Act and TOC Act would not be achieved. The ICRC would be better focussed on:

* ensuring Icon Water is operating efficiently and providing a pricing determination that encourages them to do so; and
* meeting the objectives of *cl. 7* of the *ICRC Act*.