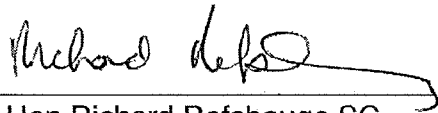


**The Hon Richard Refshauge SC**  
**Disputed Claim of Privilege**

**Supplementary Report of the Independent Arbiter**  
**Icon Water Contracts with ActewAGL**

1. On 2 November 2018, I submitted to the Clerk of the Legislative Assembly for the Australian Capital Territory (**the Legislative Assembly**) a Report (**the Report**) on a claim of public interest immunity that had been made by Icon Water Limited (**Icon Water**) in respect of two contracts that the Legislative Assembly had ordered to be produced to it.
2. In that Report, I held, inter alia, that certain parts of the contracts were immune for production on the ground of public interest immunity, but that other parts for which that immunity had been claimed were *not* immune as claimed.
3. The two contracts were different but had a number of provisions that were common. Thus, for instance, a number of the definitions in each contract were identical. I held that some of the definitions, for which immunity had been claimed, were not so immune but that others were.
4. In the Report, in particular, I held that in the Customer Services and Community Support Agreement the definition of "ActewAGL Retail Financial Model" was subject to immunity from production but in the Corporate Services Agreement, the definition of "ActewAGL Fixed Price Service Charge Model", the equivalent definition, was not determined to be immune.
5. Given the equivalence of the two definitions, this difference was queried by Icon Water. I have reviewed the Report and agree that the same reasoning should apply to both contracts and that it was an inadvertent omission that the latter definition was not included in those definitions in the Corporate Services Agreement which were immune from production.
6. Accordingly, I amend my Report by adding to paragraph 96 (b) (i) "ActewAGL fixed Price Service Charge Model" so that the paragraph will read:  
    (i) For the same reason as set out in (a) (i) above, I reject the claim of privilege for all the definitions save for those of "Actual Allocated Costs", "ActewAGL Fixed Price Service Charge Model", "Liability Periods" and "Unwind Costs".
7. I regret the inadvertent omission.



The Hon Richard Refshauge SC  
8 September 2018