

Community Ambulance Cover and Other Acts Amendment Bill 2007

Explanatory Notes

General Outline

Policy Objectives

To amend the *Community Ambulance Cover Act 2003* to ensure appropriate imposition of the Community Ambulance Cover levy on commencement of full retail competition (FRC) in the energy industry.

To amend the *Electricity Act 1994* and *Electricity and Other Legislation Amendment Act 2006* to make minor and technical legislative corrections and cease development of a retailer of last resort (ROLR) scheme for the Queensland gas market.

To amend the *Breakwater Island Casino Agreement Act 1984* in relation to land tenure arrangements.

To amend the *Lotteries Act 1997* to clarify and strengthen the provisions relating to the payment of prizes.

To amend the *State Financial Institutions and Metway Merger Facilitation Act 1996* to accommodate the Merger Implementation Agreement between Suncorp-Metway and Promina.

To amend the *Integrated Planning Act 1997* to provide Queensland Water Infrastructure Pty Ltd with exemptions for reconfigurations for part-takes of land acquired by agreement from landowners for those projects which that company is directed to undertake under either the *Water Act 2000* or the *State Development and Public Works Organisation Act 1971*.

Reasons for the Bill

Under the *Community Ambulance Cover Act 2003*, the Community Ambulance Cover levy (the levy) is collected by electricity retailers as agents for the Commissioner of State Revenue. Electricity accounts issued

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by electricity retailers to their customers include a statement of levy liability for each electricity sale arrangement to which the account relates.

The *Electricity and Other Legislation Amendment Act 2006* amended the *Electricity Act 1994* to give effect to FRC for the energy industry. These amendments, and FRC, will commence on 1 July 2007 (the FRC day). The *Community Ambulance Cover and Other Acts Amendment Bill 2007* will amend the *Community Ambulance Cover Act 2003* to make necessary consequential amendments for FRC.

The *Electricity Act 1994* and *Electricity and Other Legislation Amendment Act 2006* will be amended to correct a small number of unintended errors or oversights in the latter Act, which were identified in ongoing consultation on the remaining technical, complex and significant changes required to the regulatory framework for FRC. Further the *Electricity and Other Legislation Amendment Act 2006* will be amended to recognise that a ROLR scheme in the gas market is, at present, unnecessary and impractical.

The *Breakwater Island Casino Agreement Act 1984* will be amended to correct an unintended consequence of the recent commencement of the *Breakwater Island Casino Agreement Amendment Act 2006* with regard to land tenure arrangements within the Breakwater Island marina basin.

The *Lotteries Act 1997* will be amended to clarify and strengthen the provisions relating to the payment of prizes in circumstances where the winning ticket cannot be produced.

The *State Financial Institutions and Metway Merger Facilitation Act 1996* facilitated the merger of Suncorp, Metway and the Queensland Industry Development Corporation to form Suncorp-Metway. The Act contains provisions designed to ensure that Suncorp-Metway maintains a significant presence in Queensland. Relevantly, section 64(1)(b) provides that Suncorp-Metway's constitution must provide that the majority of directors must ordinarily reside in Queensland. In October 2006, Suncorp-Metway and Promina entered into a Merger Implementation Agreement to merge their businesses through a Scheme of Arrangement. The Agreement provided that Suncorp-Metway would approach the Queensland Government to have the Act amended to allow the appointment of four Promina directors to the Suncorp-Metway Board.

The *Integrated Planning Act 1997* will be amended to facilitate voluntary agreement for part-takes of land by Queensland Water Infrastructure Pty Ltd (QWI) for those projects which that company is directed to undertake

under either the *Water Act 2000* or the *State Development and Public Works Organisation Act 1971*.

Achievement of Objectives

Community Ambulance Cover Act 2003

Current levy framework

The *Community Ambulance Cover Act 2003* imposes the levy on certain electricity sale arrangements for the supply of electricity in Queensland, where an exemption does not apply. Those sale arrangements are standard contracts, power card arrangements, on-supply arrangements and contestable sale arrangements. The FRC changes have implications mainly for the application of the levy to standard contracts and contestable sale arrangements.

Current levy treatment of standard contracts

A person must pay the levy for each standard contract for which the person is the non-contestable customer. A standard contract is a contract for the sale of electricity by an electricity retailer to a non-contestable customer, but only if, for the sale, the electricity is supplied for consumption in Queensland and the supply of electricity is measured by a meter. Non-contestable customers comprise the vast majority of electricity customers and must purchase electricity from the electricity retailer for their area. These customers are generally residential and small business customers.

Current levy treatment of contestable sale arrangements

A person must pay the levy for each contestable sale arrangement for which the person is the contestable customer. A contestable sale arrangement is an arrangement of the sale of electricity by an electricity retailer to a contestable customer for consumption at premises if the customer is declared to be a contestable customer for the supply of electricity to the premises, the premises are in Queensland and the supply of electricity to the premises is measured by a meter.

The term “contestable customer” is defined in the *Electricity Act 1994* as a customer declared to be a contestable customer under the regulations. Under the *Electricity Regulation 2006*, an electricity customer who consumes, or may consume, more than 0.1GWh of electricity per annum for single premises and has a metering installation under the National

Electricity Rules for each connection point to the premises may apply to be declared a contestable customer for the premises. Contestable customers may choose their electricity retailer and are generally large business customers.

Impact of the FRC changes

From the FRC day, the distinction between contestable and non-contestable customers under the *Electricity Act 1994* will not exist. All customers, other than excluded customers, may choose their electricity retailer and negotiate contracts for the supply of electricity. (Excluded customers are small customers connected to isolated remote networks or who acquire electricity under on-supply arrangements or unmetered supply arrangements.) In addition to the removal of the distinction between contestable and non-contestable customers, the system of declaring a customer to be a contestable customer for a single premises will be discontinued.

Consequential amendments required to the Community Ambulance Cover Act 2003

Imposition of the levy

The provisions of the *Community Ambulance Cover Act 2003* dealing with standard contracts (Part 2) and contestable sale arrangements (Part 5) will be replaced with provisions in a new Part 2 imposing the levy on customer sale arrangements. A customer sale arrangement is an arrangement for the sale of electricity by an electricity retailer to a person (the relevant customer for the arrangement) if the electricity is supplied for consumption in Queensland and the supply is measured by a meter.

The new provisions will ensure that the levy continues to apply to customers who are presently liable for the levy as either non-contestable customers or contestable customers, and that there is no loss of levy revenue where separate supplies of electricity are bundled under one contract.

Following consultation with electricity retailers on these amendments, section 10(4) in the new Part 2 clarifies the circumstances in which a customer sale arrangement will exist. Under electricity industry standards and regulation, there is usually one National Metering Identifier for each electricity connection to premises where the supply is measured by a meter. There can be one or more meters for a metering installation with a

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National Metering Identifier. Section 10(4) will provide that, if a National Metering Identifier has been issued for the metering installation for a supply of electricity measured by one or more meters, there is only one customer sale arrangement for the supply.

The proposed FRC changes may result in an increased levy liability for a small number of existing customers (estimated by electricity retailers to be as few as 50 to 100) due to electricity metering and regulatory changes. These increases are unavoidable without complex arrangements to prevent them. Also, these customers will be being treated equitably with other customers in comparable circumstances from the FRC day. In some cases, the customers may be eligible to apply for one of the exemptions available under the *Community Ambulance Cover Act 2003*.

Exemptions

The same exemptions as are currently available for standard contracts and contestable sale arrangements will apply for customer sale arrangements. No new exemptions are proposed.

Exemptions obtained by electricity customers for existing standard contracts and contestable sale arrangements before the FRC day will apply to the customer sale arrangements which come into existence on the FRC day in replacement of those contracts or arrangements.

Where a customer sale arrangement is exempt from the levy and the electricity customer enters into a new contract with their existing retailer, a new customer sale arrangement comes into existence. The Bill will enable the new arrangement to be treated as an exempt arrangement without the need for a fresh application for exemption provided the customer continues to be eligible for exemption. However, if a further contract is entered into, a fresh application for exemption will be required.

From the FRC day, electricity customers will be free to change electricity retailers or negotiate a different contract with their existing retailer. Where this occurs, administrative issues will arise for the electricity retailer under the previous contract if it subsequently becomes necessary to make adjustments to the customer's levy liability for a period covered by the previous contract. This is because the electricity customer's account will have been closed. Adjustments may be either a refund of overpaid levy or collection of a levy shortfall. For example, under the *Community Ambulance Cover Act 2003*, an electricity customer is entitled to claim retrospective entitlement to a levy exemption and a refund of levy paid for up to 12 months. Conversely, where an electricity sale arrangement ceases

to be an exempt arrangement, the electricity customer must notify their electricity retailer within 28 days and the retailer will then take steps to recover any levy shortfall. To minimise compliance costs for the electricity customer and their former retailer, the Bill will authorise levy adjustments of this kind to be made by the electricity customer's existing electricity retailer where they relate to a period covered by the previous contract if the electricity supply under the previous and existing arrangements is measured by the same meter.

Example 1

Customer A commences a customer sale arrangement with Retailer 1 on 2 July 2007, on which the levy is imposed and paid. On 25 August 2007, Customer A becomes eligible for exemption from the levy but does not notify Retailer 1. On 3 October 2007, Customer A changes retailers for the supply to Retailer 2 and the levy applies to the new customer sale arrangement. On 15 November 2007, Customer A notifies Retailer 2 of their eligibility for exemption from 25 August 2007. Retailer 2 will apply the levy exemption and process the refund for the levy overpaid from 25 August 2007.

Example 2

Customer B commences an electricity sale arrangement with Retailer 1 on 1 August 2007 and claims a levy exemption. On 25 October 2007, Customer A stops being entitled to the exemption but fails to notify Retailer 1. On 3 November 2007, Customer A changes retailer for the supply to Retailer 2 and again claims the levy exemption. On 15 January 2008, Customer A realises their ineligibility for the levy exemption and notifies Retailer 2. Retailer 2 will make the necessary levy adjustments and recover the unpaid levy payable from 25 October 2007.

Electricity Act 1994 and Electricity and Other Legislation Amendment Act 2006

The amendments to the *Electricity Act 1994* and *Electricity and Other Legislation Amendment Act 2006* will ensure that, when FRC commences on 1 July 2007, the electricity and gas markets operate in a manner consistent with the policy objectives of the government's decision to introduce FRC. In particular, the amendments:

- ensure key definitions act as intended;

- ensure the rights and obligations of all market participants are correctly allocated; and
- clarify a number of possible areas of ambiguity.

Breakwater Island Casino Agreement Act 1984

The amendment to the *Breakwater Island Casino Agreement Act 1984* will assist with the settlement of certain land sales contracts adjacent to the marina precinct in the near future.

Lotteries Act 1997

The amendment to *Lotteries Act 1997* will specify additional circumstances where the lottery licensee may pay a prize to a person which effectively clarifies the existing ability of the lottery licensee to pay a prize in circumstances where the claimant is not registered with the licensee and is unable to produce the winning ticket.

State Financial Institutions and Metway Merger Facilitation Act 2006

The *Community Ambulance Cover and Other Acts Amendment Bill 2007* will accommodate the Merger Implementation Agreement between Suncorp-Metway and Promina by allowing Promina to place directors on the board of Suncorp.

Integrated Planning Act 1997

The amendments to the *Integrated Planning Act 1997* will provide Queensland Water Infrastructure Pty Ltd with exemptions for reconfigurations for part-takes of land acquired by agreement from landowners.

Alternatives to the Bill

The policy objectives can only be achieved by legislative enactment.

Estimated Cost for Government Implementation

Implementation costs for the Queensland Government in relation to the amendments to the *Community Ambulance Cover Act 2003* are not expected to be significant. These costs relate to changes in publications,

documents, website and systems, staff training and managing enquiries through the implementation period.

Existing electricity retailers will incur costs in relation to system changes, staff training and call centre costs but have advised that these costs are not expected to be significant.

There is no implementation cost associated with the amendments to the *Electricity Act 1994* and the *Electricity and Other Legislation Amendment Act 2006* for FRC.

Implementation costs in relation to the amendments to the *Breakwater Island Casino Agreement Act 1984* and *Lotteries Act 1997* are not expected to be significant.

The proposed amendment to the *State Financial Institutions and Metway Merger Facilitation Act 1996* is cost neutral.

There is no implementation costs associated with the proposed amendments to the *Integrated Planning Act 1997*.

Consistency with Fundamental Legislative Principles

Under the new electricity regime, small customers may enter into negotiated retail contracts with a retail entity prior to the FRC day. However, customer retail services cannot be provided under such a negotiated retail contract prior to the FRC day and any existing standard customer sale contract continues to apply. These arrangements commenced on 7 December 2006. A transitional provision proposed in the *Community Ambulance Cover and Other Acts Amendment Bill 2007* will ensure that the levy is not imposed twice in this case. (Without a transitional provision, a levy would be imposed on the existing contract and also on the newly negotiated retail contract.) This transitional provision will apply retrospectively but is beneficial to electricity customers.

The *Community Ambulance Cover Act 2003* contains provisions for recovery of unpaid levy by electricity retailers. In particular, where a levy amount is outstanding, the disconnection provisions in the regulations under the *Electricity Act 1994* apply as if the failure to pay the levy were a failure to pay for electricity. From the FRC day, the disconnection provisions will be in both the regulations and Electricity Industry Code (the Code), requiring a consequential cross-referencing change to the *Community Ambulance Cover Act 2003*. No other change to the levy recovery provisions is proposed. From the FRC day, the disconnection

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provisions may be amended by changes to the Code alone, subject to certain change procedures.

However, maintenance of the disconnection power for levy purposes is essential to protect the revenue base, given the amount of the levy (\$95.23 per annum) and large numbers of liable persons. Further, under the *Community Ambulance Cover Act 2003*, priority is afforded to payment of unpaid levy amounts over outstanding electricity charges so that an electricity retailer's reliance on the disconnection provisions is likely to be for recovering unpaid electricity charges in addition to any unpaid levy amounts. Dependence of the disconnection power on an administrative power is therefore considered appropriate for levy purposes. Also, retention of the disconnection power for electricity but not levy purposes would subject electricity customers to separate recovery and enforcement regimes for electricity and levy purposes.

The amendment contained in clause 40 to section 16 of the *Electricity and Other Legislation Amendment Act 2006* (which inserts new section 55G of the *Electricity Act 1994*) is considered a "Henry VIII" provision by the Scrutiny of Legislation Committee. The amendment provides for exceptions to be made by regulation to the prohibition on Ergon Energy entering into negotiated retail contracts. The amendment is principally required to prevent new section 55G inadvertently preventing Ergon Energy from undertaking its proposed Solar Cities Trial at Townsville, for which funding is being provided as part of the Commonwealth Government's Solar Cities Programme. It is also considered necessary to provide flexibility to allow Ergon Energy to undertake other, currently unforeseen, activities which were not intended to be restricted, without the need for further legislative amendment.

The amendment to new section 55G does not affect the restriction on the range of customers Ergon Energy can supply electricity to, thus retaining a key element of the restriction and ensuring that any other exceptions provided by regulation are consistent with the policy intention of the provision; namely that Ergon Energy not be permitted to compete with other retailers to supply electricity customers in Queensland.

Clause 51 inserts new section 3A of the *Breakwater Island Casino Agreement Act 1984*. New section 3A(3) provides that new section 3A(2), which allows trustee lessees to rent berthing or mooring facilities on the leased land for a period ending on 23 November 2063, is taken to always have applied to trustee leases granted before commencement of the section, that is, retrospectively. These rights previously existed but were

unintentionally omitted through the *Breakwater Island Casino Agreement Act 2006*. The retrospective operation of the section is there merely to confirm the continuity of these previous rights which are again being legislatively recognised.

Additionally, clause 55 inserts a transitional section 252 into the *Lotteries Act 1997*. New section 252 provides that the new provisions are taken to have commenced up to seven years before the commencement of section 252, that is, retrospectively. QOGR considers that the *Lotteries Act 1997* already allows the lottery licensee to pay a claim in circumstances where the claimant is unable to produce the winning ticket however considers it appropriate to clarify this issue legislatively. The retrospective operation of the section should therefore have no detrimental effect.

The *Community Ambulance Cover and Other Acts Amendment Bill 2007* does not infringe on any other fundamental legislative principles.

Consultation

The proposed levy amendments were developed in consultation with key stakeholders including current and potential electricity retailers, the Energy Competition Committee and the Department of Mines and Energy. Separate public consultation was not necessary for these amendments.

The Energy Competition Committee, appointed to oversee the implementation of FRC in Queensland, and the Department of Mines and Energy have consulted with representatives of the Queensland Government, energy businesses and consumer groups on the proposed amendments to the *Electricity Act 1994* and *Electricity and Other Legislation Amendment Act 2006*. All stakeholders consulted support the need for, and substance of, the proposed amendments.

The Golden Casket Lottery Corporation Limited was consulted in relation to the proposed amendments to the *Lotteries Act 1997*.

Consultation for the amendments relating to the *Breakwater Island Casino Agreement Act 1984* was undertaken with the Departments of Infrastructure, Natural Resources and Water and Transport, the Townsville Port Authority, City Pacific Limited, the Consolidated Properties Group, Jupiters Limited, Breakwater Island Limited and Corrs Chambers Westgarth.

There has been no external consultation carried out in relation to the proposed amendment to the *State Financial Institutions and Metway Merger Facilitation Act 1996*.

Consultation for the amendments to the *Integrated Planning Act 1997* was undertaken with the Department of Local Government, Planning, Sport and Recreation, Treasury, Environmental Protection Agency, Justice and Attorney-General, Natural Resources and Water, the Department of Premier and Cabinet. Preliminary consultation is scheduled to be conducted with the Local Government Association of Queensland.

Notes on Provisions

Clause 1 cites the short title of the Bill.

Clause 2 specifies the commencement dates of provisions in the Bill.

Clause 3 states that Part 2 amends the *Community Ambulance Cover Act 2003*.

Clause 4 omits section 10, which defines a standard contract, as the distinction between standard contracts and contestable sale arrangements will not be relevant for levy purposes from the FRC day. The clause inserts a definition of ‘customer sale arrangement’ in section 10. Subsection (1) defines a customer sale arrangement as an arrangement for the sale of electricity by an electricity retailer to a person if the electricity is supplied for consumption in Queensland and the supply is measured by a meter.

Example – A supply of electricity to a Queensland residence under a retail contract where the supply is measured by a meter.

Subsection (2) provides that the supply of electricity through a power card arrangement is not a customer sale arrangement.

Subsection (3) clarifies that there can be two or more customer sale arrangements in place even though there is only one contract for the sale of electricity with the electricity retailer to a person who is the relevant customer for each of the arrangements.

Subsection (4) clarifies how the definition of ‘customer sale arrangement’ will apply where a National Metering Identifier is issued for a metering installation. There is one customer sale arrangement for the supply of electricity measured by one or more meters forming part of the metering installation. It does not matter that the supply may be measured by more than one meter.

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Subsection (5) defines terms used in new section 10.

Clauses 5 and 6 amend the examples in sections 14 and 15 to ensure drafting consistency.

Clause 7 omits section 16, which defines a contestable sale arrangement, as the distinction between standard contracts and contestable sale arrangements will not be relevant for levy purposes from the FRC day.

Clause 8 makes consequential amendments to section 17 for the replacement of the terms “standard contracts” and “contestable sale arrangements” with “customer sale arrangements” from the FRC day.

Clause 9 omits existing Part 2 containing provisions about the imposition of the levy on standard contracts and substitutes a new Part 2 containing the following provisions about the imposition of the levy on customer sale arrangements.

- Section 22 provides that Part 2 imposes the levy on customer sale arrangements and that liability for the levy is imposed on a customer sale arrangement for each day the arrangement is in place.
- Section 23 prevents the levy applying to each of two or more customer sale arrangements where they relate to what is essentially the same electricity supply. This situation will usually arise where a customer is changing retailers and there is a period for which there are two retail contracts in place, one with each electricity retailer. The section ensures that the levy applies only to the customer sale arrangement for which the electricity retailer is the financially responsible entity for the premises.

Example 1 - A standard retail contract is in place with Retailer A for the supply of electricity to a customer's residence. On 25 July 2007, the customer enters into a negotiated retail contract with Retailer B for the electricity. Retailer A is the financially responsible retail entity until 29 July 2007 and Retailer B becomes the financially responsible retail entity on 30 July. There are two customer sale arrangements in place from 26 July to 29 July. However, the levy applies only to the arrangement with Retailer A for those days because Retailer A is the financially responsible entity for the premises for those days.

Example 2 – A standard retail contract is in place with Retailer A for the supply of electricity to premises. On 30 September 2007, the customer enters into a negotiated retail contract with Retailer B for another supply of electricity to the premises. Section 23

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does not apply in this case as the two customer sale arrangements are not for the same supply of electricity.

- Section 24 provides that the days which a customer sale arrangement is in place do not include the date the arrangement starts, but do include the day the arrangement ends. Also, a customer sale arrangement will be taken to have ended when the supply of electricity for sale under the arrangement is disconnected, other than because of a temporary disconnection or other interruption.
- Section 25 provides that liability for the levy will continue even if no electricity is the subject of sale under the customer sale arrangement. However, liability for the levy does not arise until the premises are connected.
- Section 26 states that a levy imposed on a customer sale arrangement must be paid by the relevant customer for the arrangement. If there are two or more persons who are the relevant customer under the arrangement, all persons are jointly and severally liable for payment of the levy.
- Section 27 provides that, if a person is the relevant customer under two or more customer sale arrangements and a single electricity account is issued for the arrangements, the person remains liable for the levy on each arrangement. Consolidation of electricity accounts issued for customer sale arrangements does not affect liability for the levy for each arrangement.
- Section 28 states that the amount of the levy imposed on a customer sale arrangement for each day the arrangement is in place is the daily levy for the financial year in which the day happens.
- Section 29 states that the levy is not payable for a day that a customer sale arrangement is an exempt customer sale arrangement.
- Section 30 ensures that, where a number of circumstances apply to a customer sale arrangement, the arrangement will be an exempt customer sale arrangement only if each of those circumstances, considered separately, would result in the arrangement being exempt under Division 5 of Part 2.
- Section 31 provides a conditional exemption for later customer sale arrangements. The reference to tariffs in the former section 30 exemption for later standard contracts has been omitted to ensure that entitlement to the exemption is available even though the electricity is not being purchased under a tariff. This is more likely to occur under

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FRC. Removal of this condition enables former sections 30 and 30A to be combined into a single provision.

- Section 32 provides a conditional exemption for pensioners as defined in the dictionary.
- Section 33 provides an exemption where all electricity sold under a customer sale arrangement is supplied to a farming shed as defined in the dictionary.
- Section 34 provides an exemption where all electricity sold under a customer sale arrangement is supplied to a pump that is a water pump used for irrigation, stock or other purposes of primary production, or a water or sewerage pump used for domestic purposes.
- Section 35 provides an exemption where all electricity sold under a customer sale arrangement is supplied to a hot water system.
- Section 36 provides an exemption where all electricity sold under a customer sale arrangement is supplied to a public park facility as defined in the dictionary.
- Section 37 provides a conditional exemption where all the electricity sold under a customer sale arrangement is supplied to security lighting and there is another electricity sale arrangement for the premises to which the lighting relates. Decorative lighting, lighting for an advertisement and lighting for recreational purposes, such as lighting on a sporting field, is not security lighting.
- The exemption will apply only if the building common account exemption (type 1) or the building common account exemption (type 2) do not apply. For example, a customer sale arrangement for security lighting in a home unit building may be exempt under one of those other exemptions. If so, section 37 does not apply.
- Section 37A provides an exemption where all electricity sold under a customer sale arrangement is supplied to equipment if, upon written medical advice, the equipment needs to be used by a person because of a medical condition or needs to be readily available for use in a medical emergency because of the medical condition of the person. However, the exemption does not apply if the equipment is located in premises that are, or are in the nature of, a hospital, an aged care hostel or a nursing home.
- Section 37B provides an exemption where all electricity sold under a customer sale arrangement is supplied to a retirement village for

common facilities for the retirement village or one or more on-supply arrangements and there is an electricity sale arrangement for each occupied accommodation unit that is a separate domestic area in the retirement village.

- Section 37C provides an exemption where all electricity sold under a customer sale arrangement is supplied to a multi-unit building for common facilities for the building or one or more on-supply arrangements and there is an electricity sale arrangement for each occupied separate area in the building.
- The exemption does not apply where the building is a house with a granny flat as it is not a multi-unit building. However, if there are two or more customer sale arrangements for a house, an exemption may be available under section 31.

Example 1 - A residential unit building has 50 units. An on-supply arrangement (type 1) applies for the supply of electricity to each occupied unit. Electricity for the on-supply arrangements is supplied to the building manager under a customer sale arrangement. Additionally, the building manager receives two other electricity accounts issued under two customer sale arrangements for common facilities, one for building common lighting and one for building services, including a swimming pool filter and lifts. All three customer sale arrangements are exempt.

Example 2 - An office building has 17 tenancies. A customer sale arrangement applies for the supply of electricity for each tenancy. Under a separate customer sale arrangement, the building owner receives another electricity account for common facilities including lighting, lifts and air conditioning for the building. The customer sale arrangement for the lighting, lifts and air conditioning is exempt.

- Section 37D provides an exemption for buildings with two separate areas where a memorandum electricity account is issued and both separate areas are occupied by persons who would be entitled to claim the pensioner exemption. The exemption applies for all common facility electricity accounts and master supply electricity accounts.

Example - A building comprises two residential units occupied by pensioners. Under a customer sale arrangement for the supply of electricity to the building, a memorandum electricity

account is issued to the building owner showing the cost of electricity supplied to each unit. If the pensioners were the customers for the supply of electricity to their units, they would be entitled to claim the pensioner exemption in section 32 of the Act. The customer sale arrangement is therefore exempt under section 37D.

- Section 37E provides an exemption for buildings with two separate areas where a memorandum electricity account and one or more other common facility electricity accounts are issued and one separate area is occupied by a person who would be entitled to claim the pensioner exemption. The exemption applies for all common facility electricity accounts and master supply electricity accounts except the first electricity account to have commenced.

Example 1 – A building comprises two residential units. One unit is occupied by a pensioner and the other is not. Under a customer sale arrangement for the supply of electricity to the building, a memorandum electricity account is issued to the building owner showing the cost of electricity supplied to each unit. If the pensioner was the customer for the supply of electricity to his or her unit, the pensioner would be entitled to claim the pensioner exemption in section 32 of the Act. Section 37E does not apply to exempt the master supply electricity account (that is, the memorandum electricity account) and it will continue to attract the levy. Under section 124B of the Act, the building owner is unable to recover the cost of this levy from the pensioner. That does not prevent recovery from the occupant of the other unit.

Example 2 – A building comprises two residential units. One unit is occupied by a pensioner and the other is not. The building owner is the customer under the following customer sale arrangements in relation to the building –

- *Arrangement A which commenced on 31 July 2006 for the supply of electricity to the building under a memorandum electricity account showing the cost of electricity supplied to each unit.*
- *Arrangement B which commenced on 31 August 2006 for the supply of electricity to a common use laundry area.*

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Arrangement B is exempt because, under section 37E, it is not the first contract to have commenced. Arrangement A will continue to attract the levy. Under section 124B, the building owner is unable to recover the cost of this levy from the pensioner. That does not prevent recovery from the occupant of the other unit.

- Section 37F provides an exemption for buildings with two separate areas where a memorandum electricity account is issued and neither separate area is occupied by a person who would be entitled to claim the pensioner exemption. The exemption applies for all common facility electricity accounts and master supply electricity accounts except the first and the second electricity account to have commenced.

Example 1 - A building comprises two residential units. Neither unit is occupied by a pensioner. The building owner is the relevant customer under a customer sale arrangement for the supply of electricity to the building under which a memorandum electricity account for the building is issued showing the cost of electricity supplied to each unit. The customer sale arrangement is not exempt and will continue to attract the levy.

Example 2 – A building comprises two residential units. Neither unit is occupied by a pensioner. The building owner is the customer under the following customer sale arrangements in relation to the building –

- *Arrangement A which commenced on 31 July 2007 for the supply of electricity to the building under a memorandum electricity account showing the cost of electricity supplied to each unit.*
- *Arrangement B which commenced on 31 August 2007 for the supply of electricity to a common use laundry area.*
- *Arrangement C which commenced on 30 September 2007 for the supply of electricity to a common air conditioning plant.*

Arrangement C is exempt because, under section 37F, it is not the first or the second arrangement to have commenced.

- Section 37G provides an exemption where the relevant customer under a customer sale arrangement is the Commonwealth.

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- Section 37H provides an exemption where the relevant customer under a customer sale arrangement is the State and all electricity sold under the arrangement is sold to premises used only for providing core government services or that are public infrastructure. The “State” includes any State instrumentality, authority, corporation or other State entity, including any government owned corporation and whether or not representing the State, but does not include a local government.
- Section 37I provides an exemption where the relevant customer under a customer sale arrangement is a local government and all electricity sold under the arrangement is supplied to premises used only for providing core local government services or that are public infrastructure.
- Section 37J provides that a customer sale arrangement is an exempt customer sale arrangement in the following circumstances.
 - The relevant customer is a religious body or a body controlled or associated with a religious body, whose principal object and pursuit is the conduct of activities of a religious nature and all electricity sold under the arrangement is supplied to premises used solely, or almost solely, as a church or other public place of worship, or as a church or other public place of worship and an associated hall. A hall used or hired out for commercial purposes will not qualify for the exemption.
 - The relevant customer is an institution whose principal object or pursuit is the care of sick, aged, infirm, afflicted or incorrigible persons and all electricity sold under the arrangement is supplied to premises used solely, or almost solely, for the purposes of the institution’s principal object or pursuit. However, premises which are a hospital, an aged care hostel or a nursing home will not qualify for the exemption. In addition, to qualify for the exemption, the institution’s constitution must satisfy the conditions contained in section 37J(5).
 - The relevant customer is an institution whose principal object or pursuit is the relief of poverty, suffering, distress or misfortune of people and all electricity sold under the arrangement is supplied to premises used solely, or almost solely, for the purposes of the institution’s principal object or pursuit. In addition, to qualify for the exemption, the institution’s constitution must satisfy the conditions contained in section 37J(5).

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- The relevant customer is an institution whose principal object or pursuit is the care of children by being responsible for them on a full time basis, providing the children with all the necessary food, clothing and shelter and providing for their general well-being and protection and all electricity sold under the arrangement is supplied to premises used solely, or almost solely, for the purposes of the institution's principal object or pursuit. In addition, to qualify for the exemption, the institution's constitution must satisfy the conditions contained in section 37J(5).

Clause 10 omits sections 44 and 44A and inserts a new section 44 in their place. The new section provides a conditional exemption for later power card arrangements. The reference to tariffs in the former section 44 exemption for later power card arrangements has been omitted in section 44, to ensure that entitlement to the exemption is available even though electricity is not purchased under a tariff. This is more likely to occur under FRC. Removal of this condition enables former sections 44 and 44A to be combined into a single provision.

Clause 11 amends the example in section 47E by updating defined terms.

Clause 12 omits Part 5 containing provisions about the imposition of the levy on contestable sale arrangements.

Clause 13 makes consequential amendments to section 87 for new Part 2 of the Act and omission of Part 5.

Clause 14 makes a consequential amendment to the heading for Part 7, Division 2, to reflect new Part 2 of the Act.

Clause 15 makes consequential amendments to section 90 to reflect new Part 2 of the Act.

Clause 16 makes the following amendments.

- Existing section 90A is omitted. With the exception of the hot water system exemption, applications for levy exemptions are made to electricity retailers as agents of the Commissioner of State Revenue. For the hot water system exemption, section 90A requires the application to be made directly to the Commissioner but only if the deemed notification provisions of section 99(3) do not apply, that is, only if the sale of the electricity is not charged under a prescribed tariff. Where the tariff applies, exemption is provided automatically. No exemption applications have been made to the Commissioner under section 90A. Under FRC, it is more appropriate for any such

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applications to be made to electricity retailers consistent with other exemption applications. No change is being made to the conditions of entitlement to the exemption.

- New section 90A is inserted. This is one of a number of new provisions designed to reduce compliance costs for electricity retailers and their customers under FRC. These sections recognize that more electricity customers are likely to enter into new arrangements with their existing electricity retailers or change electricity retailers. Most of these new provisions support the giving of notices and the making any necessary levy adjustments (both payment of refunds and recovery of shortfalls) for the previous arrangements to or by the existing electricity retailer, rather than to or by the previous electricity retailer.
- Section 90A applies where a relevant customer was entitled to claim a levy exemption for a previous customer sale arrangement for an electricity supply. The customer must notify their existing electricity retailer for the supply of their entitlement to exemption if certain conditions are met. The section is supported by new section 107A which enables the existing electricity retailer to process any levy refund.
- Section 90B is inserted which relieves electricity customers from having to make a fresh application for a levy exemption for a customer sale arrangement for an electricity supply where they are entering into a new arrangement for the supply with the same electricity retailer and the previous arrangement was exempt. However, a new exemption application will be required for a subsequent customer sale arrangement with the same, or a different, retailer.

Clause 17 makes consequential amendments to section 91 to reflect new Part 2 of the Act.

Clause 18 inserts section 91A dealing with the converse situation to that set out in section 90A. Section 91A requires a relevant customer for a previous customer sale arrangement for an electricity supply to notify their existing electricity retailer for the supply of loss of entitlement to an exemption obtained from the previous retailer if certain conditions are met. This section is supported by section 105A which enables the existing electricity retailer to recover any levy shortfall.

Clause 19 omits section 92A. Like the omission of section 90A, this omission is appropriate under FRC and will result in any necessary

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applications for the hot water system exemption for power card arrangements being made to electricity retailers consistent with other exemption applications. No change is being made to the conditions of entitlement to the exemption.

Clause 20 omits Part 7, Division 5, which relates to Part 5 of the Act which is being omitted.

Clauses 21 and 22 make consequential amendments to sections 99 and 100 to reflect the omission of Part 5 of the Act.

Clause 23 makes consequential amendments to section 104 to reflect new Part 2 of the Act.

Clause 24 inserts section 105A which supports section 91A and also operates in broader circumstances. The section requires an electricity retailer for an existing customer sale arrangement for an electricity supply to recover from the relevant customer for the arrangement a shortfall amount relating to an exemption obtained by the customer for a previous customer sale arrangement for the supply if certain conditions are met.

Clause 25 makes a minor drafting change to section 107.

Clause 26 inserts section 107A which supports section 90A and also operates in broader circumstances. The section provides that an electricity customer for an existing customer sale arrangement for an electricity supply may claim from their existing electricity retailer a levy refund relating to a previous arrangement for the supply if the arrangement was exempt. The existing retailer must provide the refund in the way set out in, and subject to the conditions of, the section.

Clause 27 makes consequential amendments to section 124B to reflect new Part 2 of the Act.

Clause 28 omits section 124C, which relates to the recovery of levy amounts for certain contestable sale arrangements as Part 5 of the Act is omitted.

Clause 29 omits existing Part 12 of the Act as the transitional provisions of sections 156 and 157 are either spent or will have their operation preserved by the *Acts Interpretation Act 1954*. It also inserts a new Part 12 comprising section 155. This section applies where, before the FRC day, a non-contestable customer for premises entered or enters into a negotiated retail contract for the premises under section 312(2) of the Electricity Act. That section permits small customers to prepare for FRC by entering into contracts prior to the FRC day. However, services cannot be provided to

the customer before that day. Where a customer enters into such a contract, they may be liable for the levy more than once on what is essentially the same supply of electricity. That is, the levy may apply to both the existing contract and the negotiated contract for the supply. Section 155 prevents the levy applying to the negotiated retail contract before the FRC day by providing that the negotiated retail contract will not be a standard contract for levy purposes. However, from the FRC day, if the negotiated retail contract comprises one or more customer sale arrangements, the levy will apply to those arrangements unless an exemption applies.

Clause 30 inserts a new Part 13 containing transitional provisions for FRC.

- Section 156 contains definitions of key terms used throughout new Part 13.
- Section 157 recognises that, on the FRC day, existing levy exemptions for standard contracts and contestable sale arrangements will no longer apply because, on the FRC day, standard contracts and contestable sale arrangements will become customer sale arrangements for levy purposes. Section 157 ensures the continuation of existing exemptions without electricity customers having to reapply for exemption on the FRC day.
- Section 158 is similar to new section 90A but deals with the transitional situation, namely, where the previous arrangement was either a standard contract or a contestable sale arrangement. The section requires that the electricity customer must notify their existing electricity retailer for the supply of their entitlement to exemption for the previous arrangement if certain conditions are met. The section is supported by new section 159 which enables the existing electricity retailer to process any levy refund.
- New section 159 is similar to new section 107A but deals with the transitional situation, namely, where the previous arrangement was either a standard contract or a contestable sale arrangement. The section provides that the electricity customer for a customer sale arrangement for an electricity supply may claim from their existing electricity retailer a levy refund relating to a previous arrangement for the supply if the arrangement was exempt. The existing retailer must provide the refund in the way set out in, and subject to the conditions of, the section.
- Section 160 is similar to new section 90A and transitional section 158 but deals with a further transitional case, namely, where the previous

arrangement for an electricity supply was either a standard contract or a contestable sale arrangement, it becomes one or more customer sale arrangements on the FRC day and, subsequently, the relevant customer enters into a new customer sale arrangement for the supply with the same or a different electricity retailer. The section requires that the electricity customer must notify their existing electricity retailer for the supply of their entitlement to exemption for the previous arrangement if certain conditions are met. The section is supported by new section 161 which enables the existing electricity retailer to process any levy refund.

- Section 161 is similar to new section 107A and transitional section 159 but deals with a further transitional case, namely, where the previous arrangement for an electricity supply was either a standard contract or a contestable sale arrangement, it becomes one or more customer sale arrangements on the FRC day and, subsequently, the relevant customer enters into a new customer sale arrangement for the supply with the same or a different electricity retailer. The section provides that the electricity customer may claim from their existing electricity retailer a levy refund relating to the previous arrangement for the supply if the arrangement was exempt. The existing retailer must provide the refund in the way set out in, and subject to the conditions of, the section.
- Section 162 is similar to section 91A but deals with a transitional case, namely, where the previous arrangement for an electricity supply was either a standard contract or a contestable sale arrangement and was being dealt with as an exempt arrangement, it becomes one or more customer sale arrangements on the FRC day and, subsequently, the relevant customer enters into a new customer sale arrangement for the supply with the same or a different electricity retailer. Where the section applies, notification of loss of entitlement to the exemption for the previous arrangement must be given to the existing electricity retailer. This section is supported by section 163 which enables the existing electricity retailer to recover any levy shortfall.
- Section 163 is similar to section 105A but deals with a transitional case, namely, where the previous arrangement for an electricity supply was either a standard contract or a contestable sale arrangement and was being dealt with as an exempt arrangement, it becomes one or more customer sale arrangements on the FRC day and, subsequently, the relevant customer enters into a new customer sale arrangement for the supply with the same or a different electricity retailer. The section

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requires the electricity retailer to recover from the relevant customer any shortfall amount relating to a period after the previous arrangement stopped being exempt if certain conditions are met.

Clause 31 makes consequential amendments to the Dictionary in the Schedule to the Act.

Clause 32 provides that Part 3 amends the *Electricity Act 1994*.

Clause 33 makes consequential amendments to the heading and text of section 318 (Street lighting with non-metered connection point) consistent with the changes made by clauses 38(2) and 44.

Clause 34 makes consequential amendments to section 319 (Other unmetered connection point) consistent with the change made by clause 43 and removes the example of “security or watchman lights” to avoid potential confusion caused by the insertion of a new section 319A under clause 35, which affects the supply of electricity to certain watchman lights.

Clause 35 inserts a new section 319A regarding particular watchman lights. Only area retailers are permitted to supply watchman lights when FRC commences. Section 319A allows for Powerdirect Australia (Powerdirect) to continue supplying its existing watchman light customers, which were transferred to Powerdirect as part of the sale of the Queensland Government’s energy assets, even though Powerdirect will not an area retailer when FRC commences.

Clause 36 amends section 320 (Obligation to decide notified prices for the 2006-07 financial year on the basis of post amended act) to correct an error in the heading and remove the reference to “DUOS charges” consistent with the change in clause 40.

Clause 37 provides that Part 4 amends the *Electricity and Other Legislation Amendment Act 2006*.

Clause 38 amends section 5 (Replacement of ss23 and 23A of *Act No. 64 of 1994*). Clause 38(1) amends the term “supply network” to “distribution entity’s supply network” to ensure receivers on on-supply networks do not inadvertently fall within the definition of “customer”. Clause 38(2) amends the definition of an excluded customer to not capture large customers on isolated networks and inadvertently remove their existing right to choose their supplier. Clauses 38(3) and (4) make consequential numbering changes for clarity.

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Clause 39 amends section 13 (Replacement of ss48-55 of *Act No 64 of 1994*). Clauses 39(1) to (4) authorise general retailers to supply large customers on isolated networks consistent with clause 38(2). Clause 39(5) permits the making of a retail application to a general retailer consistent with clause 38(2). These changes ensure that, if a large customer on an isolated grid elects to enter a negotiated retail contract for the premises, the financially responsible retail entity for the premises, rather than the area retail entity, is obliged to supply the premises even if the customer for the premises later becomes a small customer. This is consistent with the obligation placed on general retailers for other customers eligible to choose their supplier.

Clause 39(6) amends new section 48D(1)(b) to ensure the provision does not inadvertently apply to customers directly connected to the transmission network. Clause 39(7) corrects a reference to subsection (2)(b) that should be a reference to subsection (2). Clause 39(8) inserts an erroneously omitted reference to premises that “are” connected to the supply network. Clauses 39(9) and (12) clarify that the “supply network” referred to is a “distribution entity’s supply network” to ensure the relevant provisions do not inadvertently capture on-supply arrangements.

Clauses 39(10) and (11) ensure the obligation on general retailers to supply certain customers operates as intended following the amendments made by clauses 38(2) and 39(1) to (5). Clause 39(13) makes a consequential amendment to the term “DUOS charges” consistent with clause 41.

Clause 40 amends section 16 (Insertion of new s 55G and new ch2, pt6A of *Act No. 64 of 1994*). Clause 40 provides that Ergon Energy is prohibited from entering into negotiated retail contracts unless for the purposes of the Commonwealth Government’s Solar Cities Programme or in other circumstances provided under a regulation, which may be subject to conditions outlined in the regulation. This amendment ensures Ergon Energy can participate in its approved Solar Cities Trial in Townsville and Commonwealth funding for the trial is not jeopardised.

Clause 41 amends section 22 (Amendment of s 90 (Deciding prices for non-contestable customers) of *Act No. 64 of 1994*). Clause 41 provides for notified prices to incorporate all shared network charges, in particular transmission use of system charges. Clause 41 also clarifies how distribution non-network charges are to be treated in calculating notified prices.

Clause 42 amends section 25 (Insertion of new ch 4, pt 2, div 3 of *Act No. 64 of 1994*). To clarify that customer retail services fixed under the

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amended section 90(1) are subject to annual indexation under this Division and is a consequential amendment to the change made by clause 41.

Clause 43 amends section 30 (Replacement of ch 5, pts 1A-1C of *Act No. 64 of 1994*). Clause 43 allows for the Queensland Competition Authority to make electricity industry codes without consultation where the change is not “materially detrimental” to anyone’s interests, rather than where it does not “materially affect” anyone’s interests. Clause 43 also clarifies that electricity industry codes may be amended by the Queensland Competition Authority without consultation where the change is needed urgently, is not materially detrimental to anyone’s interests, is uncontroversial or corrects an error.

Clause 44 amends section 53 (Amendment of sch 5 (Dictionary) of *Act No. 64 of 1994*). Clause 44 amends the definition of “financially responsible retail entity” to clarify which retail entity is obliged to supply customers where an entity has one corporate identity registered for the purchase of wholesale electricity for the customer and another registered with the Queensland Government to provide retail services to the customer.

Clause 44 also amends the definitions of “financially responsible retail entity” and “NMI premises” to ensure the existing right for large customers on isolated networks to choose their electricity retailer is retained and ensure certain provisions are not unintentionally extended to customer on on-supply arrangements.

Clause 45 amends section 108 (Amendment of s 169 (Restrictions on general retailers) of *Act No. 29 of 2003*) to ensure any restrictions on general gas retailers are subject to any insufficiency of supply declaration or insufficiency of supply direction. This amendment is made for clarity as a consequence of the decision not to develop a ROLR scheme for the gas market.

Clause 46 amends section 109 (Insertion of new s 170 of *Act No. 29 of 2003*) to ensure any restrictions on gas retailers supplying to excluded customers is subject to any insufficiency of supply declaration or insufficiency of supply direction. This amendment is made for clarity as a consequence of the decision not to develop a ROLR scheme for the gas market.

Clause 47 amends section 114 (Replacement of ch 3, pt 2 (Customer Retail Services) of *Act No. 29 of 2003*) to correct an incompatibility between the time periods allowed for gas retail and distribution businesses to make

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related decisions. The amendment permits retail businesses to agree a new time period with the affected customer when necessary.

Clause 48 amends section 145 (Insertion of new Ch 5A of *Act No. 29 of 2003*) to allow the Queensland Competition Authority to make and amend industry codes without consultation in the same circumstances as provided by clause 43.

Clause 49 amends the Schedule (Minor and consequential amendments) by renumbering section 257A of the *Gas Supply Act 2003* listed in the Schedule as section 257AA. This corrects an error whereby two sections were numbered “275A”.

Clause 50 provides that Part 5 of the Bill amends the *Breakwater Island Casino Agreement Act 1984*.

Clause 51 inserts a new section 3A which deals with particular provisions of trustee leases. The clause provides that certain trustee leases may be granted for a period ending on 23 November 2063 and allows the trustee of the relevant lease to rent berthing or mooring facilities on the land in certain circumstances. These provisions are taken to always have applied to the relevant leases which were granted before commencement.

Clause 52 renumbers sections 3A and 4 as sections 4 and 5, respectively.

Clause 53 provides that Part 6 of the Bill amends the *Lotteries Act 1997*.

Clause 54 inserts new section 130(4A) and (4B). New section 130(4A) provides that a lottery licensee is able to pay a prize to a person who does not present the winning ticket and is not a registered player after appropriately investigating the person’s claim and having regard to the value of the prize being claimed is satisfied the person is entitled to the prize. New section 130(4B) provides a list of matters that may be considered relevant in terms of appropriately investigating a person’s claim for the purpose of section 130(4A). The list of matters contained in section 4B is not exhaustive. Section 130(5) applies to a prize paid under section 130(4A), that is, the obligation to pay a prize is fully discharged even where the lottery licensee pays the prize without receiving the winning ticket and regardless of whether the person to whom a prize is paid is a registered or unregistered player.

Clause 55 inserts a new Part 12, Division 5 which contains transitional provisions. Section 130(4A) and (4B) are taken to apply, and to have always applied, to an approved lottery conducted during the three years immediately before commencement if the approved lottery is prescribed under a regulation as a designated lottery for section 129, or for other

approved lotteries, those which were conducted during the seven years immediately before commencement.

Clause 56 states that Part 7 amends the *State Financial Institutions and Metway Merger Facilitation Act 1996*.

Clause 57 amends section 64(1)(b) of the *State Financial Institutions and Metway Merger Facilitation Act 1996*, providing that five directors or 40% of the directors (if 40% does not amount to a whole number of directors, the next greatest number) must be ordinarily resident in Queensland, whichever is the greater.

Clause 58 states that Part 8 amends the *Integrated Planning Act 1997*.

Clause 59 amends s 3.7.8 of the *Integrated Planning Act 1997* to provide that pt 7 of that Act does not apply to the acquisition of land for a water infrastructure facility.

Clause 60 amends Schedule 8 (Assessable development and self-assessable development), part 1, table 3, item 1, column 2 of the *Integrated Planning Act 1997* by inserting a new subsection (j) which provides that reconfiguration caused by acquisition of part of a lot is not assessable development under the Act.

Clause 61 amends Schedule 9 (Development that is exempt from assessment against a planning scheme), table 3, item 2, column 2 of the *Integrated Planning Act 1997* by inserting a new subsection (i) which provides that reconfiguration cannot be made assessable development by a local government planning scheme.

Clause 62 amends Schedule 10 (Dictionary) of the *Integrated Planning Act 1997* to insert a new definition of *water infrastructure facility*. The intent is that the amendments listed in clauses 60 and 61 above are limited to those water infrastructure facilities which Queensland Water Infrastructure Pty Ltd is directed to carry out under either the *State Development and Public Works Organisation Act 1971* or the *Water Act 2000*.