

Guideline

Petroleum activities

Transferring petroleum infrastructure to landholders

The purpose of this guideline is to provide supporting information for the transfer of petroleum infrastructure to landholders before the surrender of the environmental authority or petroleum tenure.

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1 Introduction

1.1 Purpose

The petroleum industry is authorised to construct various types of infrastructure to undertake authorised petroleum activities. Sometimes the land on which these activities occur is used for agriculture and other purposes and **landholders** differ to the tenement holder. The Queensland Government recognises the value of certain petroleum infrastructure to landholders and supports the retention and transfer of these assets for agricultural and other purposes, providing certain circumstances are met.

Infrastructure of use to a landholder is identified early and can be sited in a location considered most suitable to the post-activity land use. Information, such as a plan showing post-resource activity land use and retained infrastructure should be provided at the application stage and provided for in any environmental authority (EA).

Whilst the transfer of petroleum assets may occur when the EA holder applies to surrender their EA, it may be desirable for this to happen before this if the EA holder no longer requires access to the infrastructure for the carrying out of the petroleum activity.

As part of any transfer process, the EA holder and the Department of Environment, Science and Innovation (the department) as the administering authority of the *Environmental Protection Act 1994* (EP Act) must consider environmental risks and rehabilitation requirements and ensure that both the asset to be transferred and the land is safe, stable, non-polluting so as to not cause environmental harm and is able to support the post-activity land use at the time of transfer. Note that the department is not involved in the authorisation of changing asset ownership but rather enables the transfer to occur whilst ensuring that the requirements of the EP Act (including rehabilitation requirements) are met.

In the event the EA holder and the landholder are the same, it is not acceptable to transfer assets and not rehabilitate the land. Further, there must be an identified and intended ongoing 'use' of the infrastructure (i.e., it is an 'asset') to the landholder.

This guideline has been developed to assist in streamlining and clarifying the process for transferring petroleum infrastructure to landholders before the surrender of the EA or petroleum tenure. Note that as this process applies before surrender of the EA, Chapter 5 Part 10 of the EP Act (including final rehabilitation reporting) and Chapter 5A Part 6 of the EP Act (relating to progressive certification for resource activities) are not applicable.

This guideline is not intended to remove or change any existing approval rights, or over-ride the requirements of the EP Act. In the event an EA holder wishes to transfer infrastructure that is not listed in this guideline, they may still apply to amend their EA to provide for a transfer of the infrastructure under the EP Act.

The streamlined process is detailed in this guideline and is summarised in the appendices.

Terms that are defined in this guideline are **bolded** as they first appear and listed in full in section 9 Glossary.

2 Petroleum assets that can be transferred

Petroleum infrastructure that is considered an asset that can be transferred to a landholder before a surrender of an EA is shown in Table 1. Infrastructure is categorised according to increasing potential environmental risk and more complex management and monitoring requirements.

Table 1: Petroleum assets that can be transferred prior to EA surrender

Petroleum asset	Category
<ul style="list-style-type: none"> • Water-related bores including water supply bores, water observation bores and water injection bores • Converted petroleum wells 	1
<ul style="list-style-type: none"> • Well pad areas of wells plugged and abandoned in accordance with the Petroleum and Gas (Safety) Regulation 2018 • Fences/gates/grids • Access tracks • Sealed private roads • Gas and/or water flow lines • Water pumping stations • Water pipeline infrastructure • Electrical distribution infrastructure including national metering identifier (NMI) points, switch boards, cabling • Communication infrastructure including towers • Power generation equipment including solar panels • Earthen bunds/contour banks that are less than 10 metres long x 2 metres high • Empty and cleaned liquid waste storages including: <ul style="list-style-type: none"> ○ fabricated or manufactured tanks and containers ○ earthen pits (including those that have been used to temporarily store residual drilling materials and drilling fluids during drilling and well completion activities) • Above ground fuel tanks and chemical storage facilities less than the ERA threshold • Accommodation facilities (not including greywater, septic or sewage treatment systems) • Workshops/sheds • Hardstand areas/concrete slabs • Laydown areas 	2
<ul style="list-style-type: none"> • Low consequence dams • Dams that are excluded (“excluded structures”) from the <i>Manual for assessing consequence categories and hydraulic performance of structures</i> (ESR/2016/1933)¹ 	3

¹ This is the publication number, which can be used as a search term to find the latest version of the publication at www.des.qld.gov.au.

3 Petroleum infrastructure that may be transferred in special circumstances

Petroleum infrastructure that could potentially be considered an asset and used by the landholder includes:

- **Regulated structures** (i.e., high or significant consequence category structures); and
- Greywater, septic, sewage treatment systems and associated disposal trenches/irrigation systems.

This infrastructure may be eligible for transfer to a landholder and is subject to case-by-case discussions with the department.

4 Structures that contain, or are proposed to contain, associated water

The *Coal Seam Gas Water Policy 2012*² outlines that wherever possible, associated water³ should be used and managed in a way that is of benefit to the community, and reduces impacts on the environment. The following structures that contain, or are proposed to receive continued inflows of, associated water may be considered an asset that may be used by the landholder:

- category 3 assets (low consequence dams and dams that are excluded structures)
- regulated structures.

These structures will be referred to herein as 'associated water structures'.

5 Petroleum infrastructure that cannot be transferred under this guideline

Petroleum infrastructure that is specifically excluded from this guideline includes:

- borrow pits
- infrastructure that at the time of construction by the EA holder was located in an **environmentally sensitive area** (i.e., **Category A ESA**, **Category B ESA** and **Category C ESA** such as state forests, endangered regional ecosystems and national parks)
- infrastructure that is used for the carrying out of an ERA as listed in Schedule 2 of the Environmental Protection Regulation 2019 including ERA 63 – Sewage treatment
- waste injection bores
- waste disposal site (e.g. mix bury cover of drill fluids).

The department has excluded this infrastructure⁴ from this guideline for the following reasons:

- the infrastructure may carry a medium to high risk of environmental harm (including cumulative impacts)
 - For example, a streamlined assessment of the transfer of infrastructure within an ESA (under this guideline) would not allow for a comprehensive assessment of cumulative impacts to landscape values (including visual amenity) and significant net loss of high value vegetated areas and habitats
- its operation by the landholder is subject to a separate approvals process under the EP Act and so the requirements of this guideline are not applicable
- the infrastructure is subject to approvals not within the department's jurisdiction

² This policy is available on the department's website at www.des.qld.gov.au.

³ Associated water is also known as 'coal seam gas' (CSG) or 'produced' water.

⁴ The department may review these exclusions at a later date.

- the EA holder is obligated to carry out rehabilitation in order to restore or replace originally lost biodiversity values.

Any request to transfer these types of infrastructure would require an application to amend the EA to provide for assessment of the proposed transfer under the EP Act. In this event, the EA holder is encouraged to request a pre-lodgement meeting with the department to identify any specific requirements and processes to facilitate the application process.

6 Considerations by the department

6.1 Category 1 assets

The transfer of converted petroleum wells and water-related bores (including water injection, water observation and water supply bores) is regulated under the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) and the *Petroleum Act 1923* (1923 Act). The 1923 Act does not allow for the transfer of water injection bores. This legislation is administered by the Department of Resources.

The conversion and transfer process can only occur if:

- For conversion of a petroleum well, the well was either:
 - drilled as required under section 281 of the P&G Act or section 75J of the 1923 Act on or after 1 January 2012
 - decommissioned under section 292 of the P&G Act or section 75U of the 1923 Act on or after 1 January 2012.
- For transfers, the tenure is an authority to prospect, water monitoring authority or petroleum lease.
- For transfers, converted petroleum wells, water observation, water supply and (if applicable) water injection bores were drilled to the standards prescribed in the Petroleum and Gas (General Provisions) Regulation 2018⁵.

More information about the conversion of a petroleum well to a water-related bore and transferring ownership of a water-related bore to a landholder, including the associated notification and reporting requirements, is available on the Business Queensland website at www.business.qld.gov.au.

6.1.1 Changes to EAs for transfer of category 1 assets

The department does not need to be notified of the transfer of converted petroleum wells and water-related bores to the landholder and an EA amendment will not be required, unless the EA lists the number of petroleum wells (e.g. in a scoping table). Where there is a scoping table listing the number of petroleum wells, the EA should be amended to reflect the transfer.

It is recommended that records of documents submitted to the Department of Resources for transfers of converted petroleum wells and water-related bores be kept by the EA holder to support any amendments to the EA and in the event the transfer needs to be demonstrated to the department for compliance purposes.

The process for the transfer of category 1 assets is summarised in Appendix A of this guideline.

⁵ The converted petroleum wells, water observation, water supply and (if applicable) water injection bores must have been drilled under the authorisation, or by the holder, of the current authority to prospect, water monitoring authority or petroleum lease in which they are currently located. If they were drilled under the authorisation, or by the holder, of the current authority to prospect, water monitoring authority or petroleum lease, and they are no longer located in the area of the authority prospect, water monitoring authority or petroleum lease, they cannot be transferred.

6.2 Category 2 assets

Category 2 assets contain a range of infrastructure that generally carry a lower environmental risk and are unlikely to cause unstable or unsafe land or ongoing pollution. However, the infrastructure must be free of contaminants to be classed as a category 2 asset. Providing the requirements of the EP Act and the recommendations in this guideline are met, category 2 assets can remain in place without rehabilitation and be transferred to the landholder before surrender.

6.2.1 Liquid waste storages

Category 2 assets include the following liquid waste storages:

- Storage for liquids (including wastes) associated with the carrying out of petroleum activities that are fabricated or manufactured tanks or containers (designed and constructed to an Australian Standard that deals with strength and structural integrity of that tank or container).
- Sumps and earthen pits used to store residual drilling material and drilling fluid only for the duration of drilling and well completion activities.

These liquid waste storages must be empty and have been professionally cleaned to be classed as a category 2 asset.

The above-listed liquid waste storages are not considered 'regulated structures' under the department's policy framework and are not subject to either of the following documents due to their lower environmental risk:

- the *Manual for assessing consequence categories and hydraulic performance of structures (ESR/2016/1933)* (the Manual)¹
- the guideline *Structures which are dams or levees constructed as part of environmentally relevant activities (ESR/2016/1934)*¹.

6.2.2 Changes to EAs for transfer of category 2 assets

To transfer category 2 assets to a landholder before surrender, the asset must satisfy all of the following:

- it is no longer be required for the carrying out of the petroleum activities
- it has an identified intended ongoing use(s) by the landholder
- the EA holder no longer requiring access to the asset. For example, a sealed private road can be transferred to a landholder once the road is no longer in use by the EA holder.

Category 2 assets are not generally expressly authorised in an EA, but rehabilitation conditions will apply to the land where these assets are located, typically requiring the removal of the infrastructure, land grading and reforming and revegetation. These rehabilitation conditions are required to be complied with before a surrender could be approved.

For an EA holder to transfer category 2 assets, the EA conditions will need to be amended to reflect both the:

1. category 2 assets that can be transferred to a landholder when no longer required for the carrying out of the petroleum activities to which rehabilitation conditions do not apply
2. decommissioning and rehabilitation requirements for infrastructure and land which is not subject to transfer that must be complied with before surrender.

Where rehabilitation criteria will not apply (item 1 above), the EA will be conditioned to ensure that the EA holder and the landholder have a written agreement that adequately covers any necessary legal and record keeping requirements in relation to the transfer of these assets. Example conditions that may be used for this purpose are provided in section 8.1 of this guideline.

The process for the transfer of category 2 assets is summarised in Appendix B of this guideline.

6.3 Category 3 assets

6.3.1 Low consequence dams

A low consequence dam is any dam that is not a high or significant consequence category dam as assessed under the Manual. A levee is not considered a low consequence dam.

All low consequence dams should have had at least one consequence assessment as this is required prior to construction and every seven years thereafter. A low consequence dam is assessed under the Manual as having a low consequence if all three event scenarios (i.e. overtopping, seepage and dam break) have a low consequence. Under the terms of the Manual, low consequence means the dam's location is such that:

- people are not routinely present in the failure path and loss of life is not expected
- contamination of surface and groundwater used for human consumption could result in the health of <10 people being affected
- contaminants are unlikely to be released to areas of significant values or moderate values or are likely to be released to those areas but would be unlikely to meet any of the minimum thresholds specified for the adverse effects listed for the significant consequent category of dams
- harm (other than a different category of harm as specified above) to third party assets in the failure path would be expected to require less than \$1 million in rehabilitation, compensation, repair or rectification costs.

Whilst the human health, environmental and economic consequences of failure may be considered 'low' under the consequence assessment, the Manual does not set capacity or contaminant concentration thresholds for low consequence structures and so even though of low consequence, these structures may still be sizeable and contain high concentrations and mixtures of hazardous contaminants.

Low consequence dams can be transferred to landholders providing the requirements of this guideline are met and it is demonstrated that the structure satisfies all of the below criteria:

- is assessed as being a low consequence dam (and not a high or significant category)
- is adequate for an identified intended ongoing use
- will be managed appropriately
- is safe, stable, non-polluting and able to support the post-activity land use at the time of transfer.

6.3.2 Dams that are excluded structures

Generally, all structures (i.e. **dams** or levees) used to store liquid contaminants associated with the operation of an ERA must have a consequence assessment carried out in accordance with the Manual for three failure event scenarios: overtopping, seepage and dam break. The assessment includes consideration of potential environmental harm that would result from these failure events.

The exception is where the structure meets the definition of an 'excluded structure'. Excluded structures include temporary (<24 months) or smaller dams (<5 mega litres (ML)) that have been constructed to contain the wetting front and minimise seepage and overtopping. For excluded structures >2.5ML and <5ML, a certified design pro-forma is required which sets out the applicable standards for the design (e.g. engineering criteria, guidelines, legislation) and criteria for the operation, maintenance and decommissioning of the structure.

Excluded structures as part of a petroleum activity may include structures used to store water, associated water, oily wastes or stimulation fluids and there can be significant variation in their environmental risk.

Under the department's policy framework, excluded structures do not require a consequence assessment in accordance with the Manual. The Manual's requirements for a design plan, as constructed drawings, operational plan (including the contingency and emergency action plan) and annual inspections do not apply and therefore these documents will not mandatorily exist to attest the dam's adequacy.

Excluded structures can be transferred to landholders providing the requirements of this guideline are met and it is demonstrated that the structure satisfies all of the below criteria:

- is adequate for an identified intended ongoing use by the landholder
- will be managed appropriately
- is safe, stable, non-polluting and able to support the post-activity land use at the time of transfer.

6.3.3 Changes to EAs for transfer of category 3 assets

To transfer category 3 assets to a landholder prior to surrender, the asset must satisfy all of the following:

- it is no longer be required for the carrying out of the petroleum activities
- it has an identified intended ongoing use(s) by the landholder
- the EA holder no longer requires access to the asset.

Excluded structures are not generally expressly authorised in an EA. Sometimes, low consequence dams are included in a scoping table. More commonly, EAs will contain a condition that allows for the transfer of stated dams that are being, or intended to be, utilised by the landholder. The usual requirements for the transfer to the landholder under such conditions are that the:

- (a) landholder has agreed in writing to the transfer
- (b) dam contains water of quality suitable for the intended ongoing use(s) by the landholder
- (c) dam has been decommissioned to no longer accept inflow from the petroleum activity(ies).

For dams (low consequence dams and dams that are excluded structures) that are not being transferred, rehabilitation conditions will always apply including requirements to remove the structure, and remediate, restore and revegetate the land. Either the transfer or rehabilitation conditions are required to be complied with before the department could approve a surrender application.

For an EA holder to transfer category 3 assets, the EA will need to be amended to reflect both the:

1. low consequence dams and dams that are excluded structures that are identified as assets that have been transferred to a landholder to which rehabilitation conditions do not apply
2. decommissioning and rehabilitation requirements for infrastructure and land which is not subject to transfer that must be complied with before surrender.

Example conditions that may be used for the transfer of category 3 assets are provided in section 8.2 of this guideline.

The process for the transfer of category 3 assets is summarised in Appendix C of this guideline.

6.4 Associated water structures

Where an EA holder proposes to transfer a structure (category 3 asset or regulated structure) that will continue to receive inflows of associated water (e.g. via a pipeline), the department does not consider this supply of associated water to a landholder to be a petroleum activity.

The process for the transfer of associated water structures is summarised in Appendix D of this guideline.

6.4.1 Continued supply of associated water

There are two options to regulate the supply of associated water to a landholder, the:

1. end of waste (EOW) framework under the *Waste Reduction and Recycling Act 2011*
2. EA framework under the EP Act.

The associated water that will flow (post-transfer) into the structure proposed to be transferred can be supplied to, and used by the landholder under one, or both, of the following EOW codes for:

- Associated water (including CSG water) ENEW07547018 (ESR/2019/4713)
- Associated water for irrigation (including CSG water) ENEW07546918 (ESR/2019/4712)¹

By providing the associated water under the EOW code framework, the associated water is regulated as a resource and there are no requirements for the landholder to hold an EA for a waste-related environmentally relevant activity (ERA).

Alternatively, an EA held by a petroleum operator may authorise the supply of associated water to a landholder for an identified intended use(s) (e.g. aquaculture, dust suppression, landscaping and revegetation, irrigation and/or livestock watering). However, the associated water remains a waste and its use may be considered a waste reprocessing or waste disposal activity. In these instances, the landholder may need to hold an EA for the relevant ERA(s) under the EP Act before the associated water could lawfully be supplied or used.

The EA holder and landholder can elect in the relevant EA amendment application which of these frameworks they wish the supply and use of associated water to be authorised under.

Important note: *The department may implement changes that may impact how the supply and use of associated water to landholders is regulated. It is recommended that EA holders request advice during pre-lodgement with the department about the status of requirements for the supply and use of associated water before applying to amend an EA to transfer an associated water structure. Refer to section 7.1 below for more information about pre-lodgement.*

6.4.2 Changes to EAs for transfer of an associated water structure

To transfer associated water structures to a landholder prior to surrender, the asset must satisfy all of the following:

- it is no longer required for the carrying out of the petroleum activities
- it has an identified intended ongoing use(s) by the landholder
- the EA holder no longer requires access to the asset.

For an EA holder to transfer associated water structures, the EA will need to be amended to reflect both the:

1. associated water structures (low consequence dams, dams that are excluded structure or regulated structures) that are identified as assets that have been transferred to a landholder to which rehabilitation conditions do not apply
2. decommissioning and rehabilitation requirements for infrastructure and land which is not subject to transfer, which must be complied with before surrender.

The department may use or modify the example conditions used for the transfer of category 3 assets in section 8.2 of this guideline for this purpose. Site-specific conditions will be created as is appropriate based on the amendment application and the existing condition in the EA.

In addition to the above, if the associated water structure being transferred will receive continued inflows of associated water, and the EA holder (and landholder) elect(s) to manage its continued supply under the EA framework, the EA will also need to be amended to allow for this to occur. The conditions that may be placed on an EA for the supply of associated water to a landholder include (but are not limited to) water quality limits and monitoring requirements relevant to its identified intended ongoing use(s) and record keeping.

7 EA amendments for transfer of petroleum assets

The EP Act prescribes two ways for an EA to be amended:

1. agreement with the EA holder under section 215(1)(b)
2. application made by the EA holder under section 224.

The department may amend an EA in the event it considers an amendment necessary or desirable, or the EA holder has agreed in writing. Section 215(2) of the EP Act lists the matters leading to a necessary or desirable amendment. Amendments by agreement are initiated by the department and do not carry statutory timeframes.

Unlike amendments by agreement, amendment applications carry statutory timeframes for when the department must make its decision, offering certainty to the EA holder. The department must consider the application submitted by the holder and make an assessment level decision (ALD) as to whether the amendment is a minor or major amendment, and whether public notice will apply. For further information about EA amendments, refer to the guideline *Major and minor amendments* (ESR/2015/1684)¹.

There may be situations when an EA amendment is not required for the transfer of petroleum assets because the existing EA conditions already provide for this.

7.1 Pre-lodgement meetings for transfer of category 2 and 3 assets and associated water structures

The department offers and strongly recommends pre-lodgement meetings for applicants seeking direction and advice regarding applications to amend their EA to provide for the transfer of petroleum assets to landholders. At these meetings, EA holders can identify the type of assets to be transferred and their understanding of any associated regulatory requirements.

For the proposed transfer of category 2 assets, pre-lodgement discussions will also assist the department in deciding whether to initiate an amendment to the EA by agreement or whether an amendment application is necessary.

More information about, and the application form to request, the department's pre-lodgement services are available on the Business Queensland website at www.business.qld.gov.au.

7.2 EA amendments for transfer of category 1 assets that are converted petroleum wells

In the event the EA holder decides to amend the EA to update petroleum wells converted to water bores, copies of documents and approvals from the Department of Resources can be submitted to the department to demonstrate the conversion.

7.3 EA amendments for transfer of category 2 assets

For the transfer of category 2 assets, the EA can be amended by agreement if this is determined as appropriate by the department under section 215 of the EP Act. This is more likely where the proposed changes are straightforward and the EA holder:

- has met with the department for a pre-lodgement meeting to provide the department an early opportunity to consider the specifics of the proposal and any associated environmental risks

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- has complied with this guideline and provided the information detailed in section 7.3.1
- has clearly identified *all* proposed changes to the EA including any changes to the scoping table
- is not required to provide any additional information or clarification in response to the information submitted in accordance with this guideline.

If an amendment by agreement to allow for the transfer of category 2 assets is not initiated by the department, the EA holder may apply to amend their EA for this purpose under section 224 of the EP Act.

7.3.1 Information requirements to amend an EA for the transfer of category 2 assets

To streamline the EA amendment process to provide for the transfer of category 2 assets (and if an amendment application is required, to facilitate a 'minor' amendment), the EA holder should submit to the department the following information:

1. Any relevant information from Chapter 5 Part 7 Division 2 of the EP Act.
2. Details of the written agreement between the EA holder and the landholder, including all of the following:
 - (a) evidence that the EA holder and landholder support the transfer of assets (noting the agreement should cover any necessary legal requirements)
 - (b) identification of the assets being transferred and their location (including pictures)
 - (c) timing of the transfer
 - (d) provisions/clauses confirming that at the time of transfer, assets are in adequate, proper and effective condition to support the post-activity land use
 - (e) ongoing asset maintenance requirements
 - (f) asset emergency response and contingency advice
 - (g) any other matter or condition relevant to ensuring full liability and responsibility for the asset is wholly transferred to the landholder at the time of transfer.
3. A documented Asset Transfer Procedure detailing how the EA holder will carry out transfers to landholders during the life of the petroleum activities including:
 - (a) requirements for asset adequacy and condition assessments and reporting
 - (b) assessing the appropriateness and viability for ongoing use by the landholder
 - (c) objectives and performance outcomes that ensure the asset and the land is safe, stable, non-polluting and able to support the post-activity land use at the time of transfer.

7.4 EA amendments for transfer of category 3 assets

An amendment application under section 224 of the EP Act will be required for the transfer of category 3 assets. This is because category 3 assets have more complex management, maintenance and monitoring requirements to ensure they are adequate for their intended use, remain safe, stable and non-polluting. The department must consider, assess and be satisfied that these requirements will be met after the transfer to ensure environmental harm does not occur and that the asset and land is able to support the post-activity land use. The department will consider the application and make an ALD as to whether the amendment is a minor or major amendment, and whether public notice will apply.

Via the amendment process, the EA will provide for the transfer of specified category 3 assets and the holder will be excused from the rehabilitation conditions for that asset and the land on which they are located. Amendments to any scoping table included in the EA may also be required.

7.4.1 Information requirements to amend an EA for the transfer of category 3 assets

An amendment application for the transfer of category 3 assets that are also associated water structures are subject to the information requirements in section 7.5.1 below and not those outlined in this section.

To streamline the amendment process (and to facilitate a 'minor' amendment), the EA holder should submit to the department all the following information:

1. Any relevant information from Chapter 5 Part 7 Division 2 of the EP Act.
2. Written consent for the transfer from the landholder.
3. Consequence assessment reports (for low consequence dams).
4. An engineering inspection report prepared within the previous six months which verifies and validates the sound construction, condition and operation of the structure that includes all of the following:
 - (a) details of how the design provides for the necessary required performance to ensure stability and structural integrity including how seepage, wetting front and potential of overtopping has been minimised
 - (b) details of the condition and adequacy (as determined from an inspection carried out by a **suitably qualified and experienced person**)
 - (c) assessment of hydraulic capacity
 - (d) assessment of the physical condition and performance with respect to design intent
 - (e) whether operation has been undertaken in accordance with any operational plan
 - (f) any potential implications for non-conformance with any operation plan
 - (g) any potential implications for ongoing use.
5. Should the structure contain contaminants—a water quality monitoring report and characterisation with a statement about the suitability of the liquid for an identified intended use by the landholder.
6. Should the structure store no liquid and only contain sludge beds left over from storing contaminants—documents demonstrating that waste sludge was removed, and transported off-site for lawful re-use, remediation, recycling or disposal.
7. If applicable, any other document that may exist relating to dam's design, construction, monitoring, maintenance, and emergency management such as:
 - (a) design plans (not necessarily in the form as those described in the Manual)
 - (b) certified design pro-formas (for excluded structures)
 - (c) documented emergency and contingency response procedures
 - (d) documented monitoring programs
 - (e) historical water quality monitoring data.
8. Confirmation that the landholder has received the information in items 3 – 7 inclusive.

7.5 EA amendments for transfer of associated water structures

The transfer of an associated water structure requires the submission of an application to amend an EA under section 224 of the EP Act. In accordance with section 228 of the EP Act, the department will be required to decide whether the proposed amendment is a minor or a major amendment based on the specific amendment application, and whether public notice will apply.

7.5.1 Information requirements to amend an EA for the transfer of associated water structures

An application to amend an EA to transfer an associated water structure to a landholder, should include the following information at a minimum:

1. All relevant information from Chapter 5 Part 7 Division 2 of the EP Act (making amendment application).
2. A written agreement between the EA holder and the landholder that details all of the following:
 - a. evidence that both the EA holder and landholder support the transfer of assets (noting the agreement should cover any necessary legal requirements)
 - b. identification of the asset/s being transferred and their location (including pictures)
 - c. timing of the transfer (noting this could be a specific date or specify that the transfer will take effect upon approval of the EA amendment)
 - d. confirmation from the landholder that they received the information in items 3-5 inclusive prior to signing the agreement.
3. An engineering inspection report prepared within the previous six months that verifies and validates the sound construction, condition and operation of the structure and includes all of the following:
 - a. details of how the design provides for the necessary required performance to ensure stability and structural integrity including how seepage, wetting front and potential of overtopping has been minimised
 - b. details of the condition and adequacy (as determined from an inspection carried out by a **suitably qualified and experienced person**)
 - c. assessment of hydraulic capacity
 - d. assessment of the physical condition and performance with respect to design intent
 - e. whether operation has been undertaken in accordance with any operational plan
 - f. any potential implications for non-conformance with any operation plan
 - g. any potential implications for ongoing use.

Note: For regulated structures, EA holders can provide a copy of the latest **annual inspection report** that was completed for the structure within the previous 12 months in lieu of an engineering inspection report.

4. A written statement outlining whether the structure will continue to receive inflow of associated water from the regulated activity, and if inflows will continue, whether the applicant and the landholder elect to manage the supply and/or use of the associated water under either the:
 - a. EOW framework—identify the relevant EOW code/s for the intended ongoing use of the associated water⁶; or

⁶ The EOW code for Associated water (including CSG water) ENEW07547018 (ESR/2019/4713) and/or Associated water for irrigation (including CSG water) ENEW07546918 (ESR/2019/4712).

- b. EA framework—identify the intended ongoing use of the associated water to allow the department to determine appropriate conditions for these uses.
5. If the supply and use of the associated water is elected to occur under the EOW framework (as per item 4(a) above), the applicant must register as a *registered resource producer*⁷ under the identified EOW code/s.

7.6 Plans of operations

A replacement plan of operations may also be required in the event the petroleum activities are being carried out on a petroleum lease and to ensure compliance with section 291 of the EP Act. Updates to the following plan information is likely to be required as a result of transferring petroleum assets to landholders:

- The map showing where all petroleum activities are to be carried out on the land,
- The action program for complying with the conditions of the EA, and
- The program for the rehabilitation of land disturbed or proposed to be disturbed under each petroleum lease.

Note that penalties exist for non-compliance with section 291 of the EP Act.

More information on plans of operations, including their replacement, is available in the guideline, *Preparing a plan of operations for an environmental authority relating to a petroleum lease* (ESR/2015/1821)¹.

8 Example conditions for transfer of petroleum assets

The following conditions are examples of those that may be used when an EA holder requests to transfer petroleum assets to a landholder before the surrender of the EA.

8.1 Example conditions for transfer of category 2 assets

ATO1

When no longer required for the carrying out of the petroleum activities, all transfer category 2 assets must be decommissioned and be either:

- (a) rehabilitated in accordance with conditions <Insert final rehabilitation acceptance condition numbers in the rehabilitation schedule> in this environmental authority; or
- (b) where agreed to in writing by the relevant landholder, left in-situ and transferred to the landholder's ownership.

ATO2

Transfer category 2 assets subject to ATO1(b) must not be transferred to a landholder unless:

- (a) the asset and the land on which it is located is safe, stable, non-polluting and able to support the post-activity land use at the time of transfer;
- (b) the landholder has agreed in writing to the transfer in a documented agreement that is legally binding; and
- (c) an accurate record (including spatial records) has been made in respect of each asset transferred to the landholder.

⁷ The digital form to register as a resource producer under an end of waste code, *Registered resource producer for an end of waste code*, is available online on the Queensland Government's website at www.qld.gov.au.

ATO3

Records of each asset transferred to a landholder must be current and complete.

Definition for model condition ATO1 and ATO2:

Transfer category 2 assets means only the following:

- Well pad areas of wells plugged and abandoned in accordance with the Petroleum and Gas (Safety) Regulation 2018
- Fences/gates/grids
- Access tracks
- Sealed private roads
- Gas flow lines
- Water or associated water flow lines
- Water pumping stations
- Water pipeline infrastructure
- Electrical distribution infrastructure including national metering identifier (NMI) points, switch boards, cabling
- Communication infrastructure including towers
- Power generation equipment including solar panels
- Earthen bunds/contour banks that are less than 10 metres x 2 metres high
- Empty and cleaned liquid waste storages that are:
 - Fabricated or manufactured tanks or containers; or
 - Sumps or earthen pits (including those that have been used to temporarily store residual drilling materials and drilling fluids during drilling and well completion activities).
- Above ground fuel and chemical storage facilities that are less than the ERA threshold
- Accommodation facilities (not including greywater, septic or sewage treatment systems)
- Workshops/sheds/concrete slabs
- Hardstand areas
- Laydown areas.

8.2 Example conditions for transfer of category 3 assets

ATD1

Other than the excluded structures and low consequence dams specified in Table - *Excluded structures and low consequence dams*, when no longer required for the carrying out of the activity, all excluded structures and low consequence dams must be decommissioned to no longer accept inflow from the activity and be rehabilitated in accordance with conditions <Insert final rehabilitation acceptance condition numbers in the rehabilitation schedule>.

Table – Excluded structures and low consequence dams

Excluded structure and/or low consequence dam reference	Location
<Insert unique identifier>	<Insert GPS coordinates and/or reference to map attachment>

Definitions for example condition ATD1:

Excluded structures means the structures excluded from the requirements for a consequence category assessment as per section 2.1.1 Exemptions from the latest version of the Manual for assessing consequence categories and hydraulic performance of structures (ESR/2016/1933).

Low consequence dam for the purposes of this guideline and for transferring category 3 assets to a landholder, means any dam that is not classified as high or significant as assessed using the Manual for Assessing Hazard Categories and Hydraulic Performance of Dams, published by the Queensland Government. Low consequence category structures do not include **excluded structures**.

9 Glossary

Annual inspection report has the meaning in the Definitions section of the guideline *Structures which are dams or levees constructed as part of environmentally relevant activities (ESR/2016/1934)*¹.

Associated water means underground water taken or interfered with, if the taking or interference happens during the course of, or results from, the carrying out of another authorised activity under a petroleum authority, such as a petroleum well.

Category 1 assets means only the following:

- Water supply bores
- Water observation bores
- Water injection bores
- Converted petroleum wells.

Dam(s) means a land-based structure or a void that contains, diverts or controls flowable substances, and includes any substances that are thereby contained, diverted or controlled by that land-based structure or void and associated works.

Environmental value has the meaning in the *Environmental Protection Act 1994* and is—

- (a) a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or
- (b) another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.

Environmentally sensitive area means Category A, B or C environmentally sensitive areas (ESAs) where:

- Category A ESA means any area listed in Schedule 19 Part 1 of the Environmental Protection Regulation 2019.
- Category B ESA means any area listed in Schedule 19 Part 2 of the Environmental Protection Regulation 2019.
- Category C ESA means any definition as provided for in an environmental authority, or any of the following areas:
 - nature refuges as defined in the conservation agreement for that refuge under the *Nature Conservation Act 1992*
 - koala habitat areas as defined under the Nature Conservation (Koala) Conservation Plan 2006
 - state forests or timber reserves as defined under the *Forestry Act 1959*
 - regional parks (previously known as resource reserves) under the *Nature Conservation Act 1992*
 - an area validated as ‘essential habitat’ from ground-truthing surveys in accordance with the *Vegetation Management Act 1999* for a species of wildlife listed as endangered or vulnerable under the *Nature Conservation Act 1992*
 - ‘of concern regional ecosystems’ that are remnant vegetation and identified in the database called ‘RE description database’ containing regional ecosystem numbers and descriptions.

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ERA or environmentally relevant activity has the meaning in section 18 of the *Environmental Protection Act 1994* and means—

- (a) an agricultural ERA as defined under section 79;
- (b) a resource activity as defined under section 107;
- (c) an activity prescribed under section 19 as an environmentally relevant activity.

Excluded structure means the structures excluded from the requirements for a consequence category assessment as per section 2.1.1 Exemptions from the latest version of the *Manual for assessing consequence categories and hydraulic performance of structures (ESR/2016/1933)*¹.

Landholder for the purposes of this guideline, has a meaning derived from the *Petroleum and Gas (Production and Safety) Act 2004* –

1. A *landholder* means each person as follows in relation to the land –
 - (a) for freehold land – a registered owner;
 - (b) for land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple – the person;
 - (c) if an estate in fee simple of land is being purchased from the State – the purchaser;
 - (d) for deed of grant in trust (DOGIT) land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991* – the trustee for the land;
 - (e) for Aboriginal land under the *Aboriginal Land Act 1991* that is taken to be a reserve because of section 202(2) or (4)(b) of that Act – the trustee of the land; or
 - (f) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 151(2) of that Act – the trustee of the land; or
 - (g) for land under the *Land Act 1994* for which there are trustees – a trustee (i.e. local government, the state, a statutory body, an incorporated body or a named individual).
2. Also, a mortgagee of land is the *landholder* of land if the mortgagee -
 - (a) is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or
 - (b) or a person appointed by the mortgagee, is in possession of the land and has the exclusive management and control of the land.

3. If there is more than 1 landholder, a reference to landholder is a reference to each of the landholders.

Low consequence dam for the purposes of this guideline and for transferring category 3 assets to a landholder, means any dam that is not classified as high or significant as assessed using the *Manual for Assessing Hazard Categories and Hydraulic Performance of Dams (ESR/2016/1933)*¹, published by the Queensland Government. Low consequence category structures do not include **excluded structures**.

Petroleum well has the meaning in the *Petroleum and Gas (Production and Safety) Act 2004* and is:

1. A hole in the ground made or being made by drilling, boring or any other means—
 - (a) to explore for or produce petroleum; or
 - (b) to inject petroleum or a prescribed storage gas into a natural underground reservoir; or
 - (c) through which petroleum or a prescribed storage gas may be produced.

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2. For item 1, a prescribed storage gas is produced when it is recovered or released to ground level from a natural underground reservoir in which it has been contained or from which it is extracted.
3. A petroleum well includes the casing for the well and any wellhead for the well attached to it.
4. To remove any doubt, it is declared that a petroleum well does not include any of the following—
 - (a) a water injection bore;
 - (b) a water observation bore;
 - (c) a water supply bore;
 - (d) an existing *Water Act 2000* bore;
 - (e) a seismic shot hole or shallow hole drilled to work out a geological structure.

Regulated structure means any structure in the significant or high consequence category as assessed using the *Manual for assessing consequence categories and hydraulic performance of structures* (ESR/2016/1933)¹ published by the administering authority.

A regulated structure does not include a:

- fabricated or manufactured tank or container, designed and constructed to an Australian Standard that deals with strength and structural integrity of that tank or container;
- sump or earthen pit used to store residual drilling material and drilling fluid only for the duration of drilling and well completion activities; or
- flare pit.

Structure means dam or levee.

Suitably qualified person means a person who has qualifications, training, skills and experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis to performance relative to the subject matter using the relevant protocols, standards, methods or literature.

Suitably qualified and experienced person in relation to regulated structures means a person who is an RPEQ under the provisions of the *Professional Engineers Act 2002*, and has demonstrated competency and relevant experience:

- For regulated dams, an RPEQ who is a civil engineer with the required qualifications in dam safety and dam design.
- For regulated levees, an RPEQ who is a civil engineer with the required qualifications in the design of flood protection embankments. Note: It is permissible that a suitably qualified and experienced person obtain subsidiary certification from an RPEQ who has demonstrated competence and relevant experience in either geomechanics, hydraulic design or engineering hydrology in relation to carrying out a hazard category assessment on a structure means a person who is a RPEQ under the provisions of the *Professional Engineers Act 2002*, who is a civil engineer with the required qualifications in dam safety and dam design and has demonstrated competency and relevant experience.

Transfer category 2 assets means only the following:

- Well pad areas of wells plugged and abandoned in accordance with the Petroleum and Gas (Safety) Regulation 2018
- Fences/gates/grids
- Access tracks

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- Sealed private roads
- Gas flow lines
- Water or associated water flow lines
- Water pumping stations
- Water pipeline infrastructure
- Electrical distribution infrastructure including national metering identifier (NMI) points, switch boards, cabling
- Communication infrastructure including towers
- Power generation equipment including solar panels
- Earthen bunds/contour banks that are less than 10 metres x 2 metres high
- Empty and cleaned liquid waste storages that are:
 - Fabricated or manufactured tanks or containers; or
 - Sumps or earthen pits (including those that have been used to temporarily store residual drilling materials and drilling fluids during drilling and well completion activities)
- Above ground fuel and chemical storage facilities that are less than the ERA threshold
- Accommodation facilities (that do not include greywater, septic or sewage systems)
- Workshops/sheds/concrete slabs
- Hardstand areas
- Laydown areas.

Transfer category 3 assets means only excluded structures and low consequence dams.

Water injection bore has the meaning in the *Petroleum and Gas (Production and Safety) Act 2004* and is:

- (a) A bore to inject water or brine into a part of a geological formation or structure that is suitable to store water or brine; or
- (b) A petroleum well that, under chapter 2, part 10, division 2, has been, or is taken to have been, converted to a water injection bore.

Water observation bore has the meaning in the *Petroleum and Gas (Production and Safety) Act 2004*:

1. A water observation bore to monitor water levels and includes—
 - (a) a petroleum well that, under chapter 2, part 10, division 2, has been, or is taken to have been, converted to a water observation bore; and
 - (b) water monitoring bore under the *Water Act 2000*.
2. A reference to a water observation bore includes its casing, wellhead and any other works constructed in connection with the bore.

Water supply bore has the meaning in the *Petroleum and Gas (Production and Safety) Act 2004*.

1. A water supply bore includes a petroleum well that, under chapter 2, part 10, division 2, has been, or is taken to have been, converted to a water supply bore.

2. A reference to a water supply bore includes its casing, wellhead and any other works constructed in connection with the bore.

Disclaimer

While this document has been prepared with care it contains general information and does not profess to offer legal, professional or commercial advice. The Queensland Government accepts no liability for any external decisions or actions taken on the basis of this document. Persons external to the Department of Environment, Science and Innovation should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Approved:

7 December 2023

Enquiries:

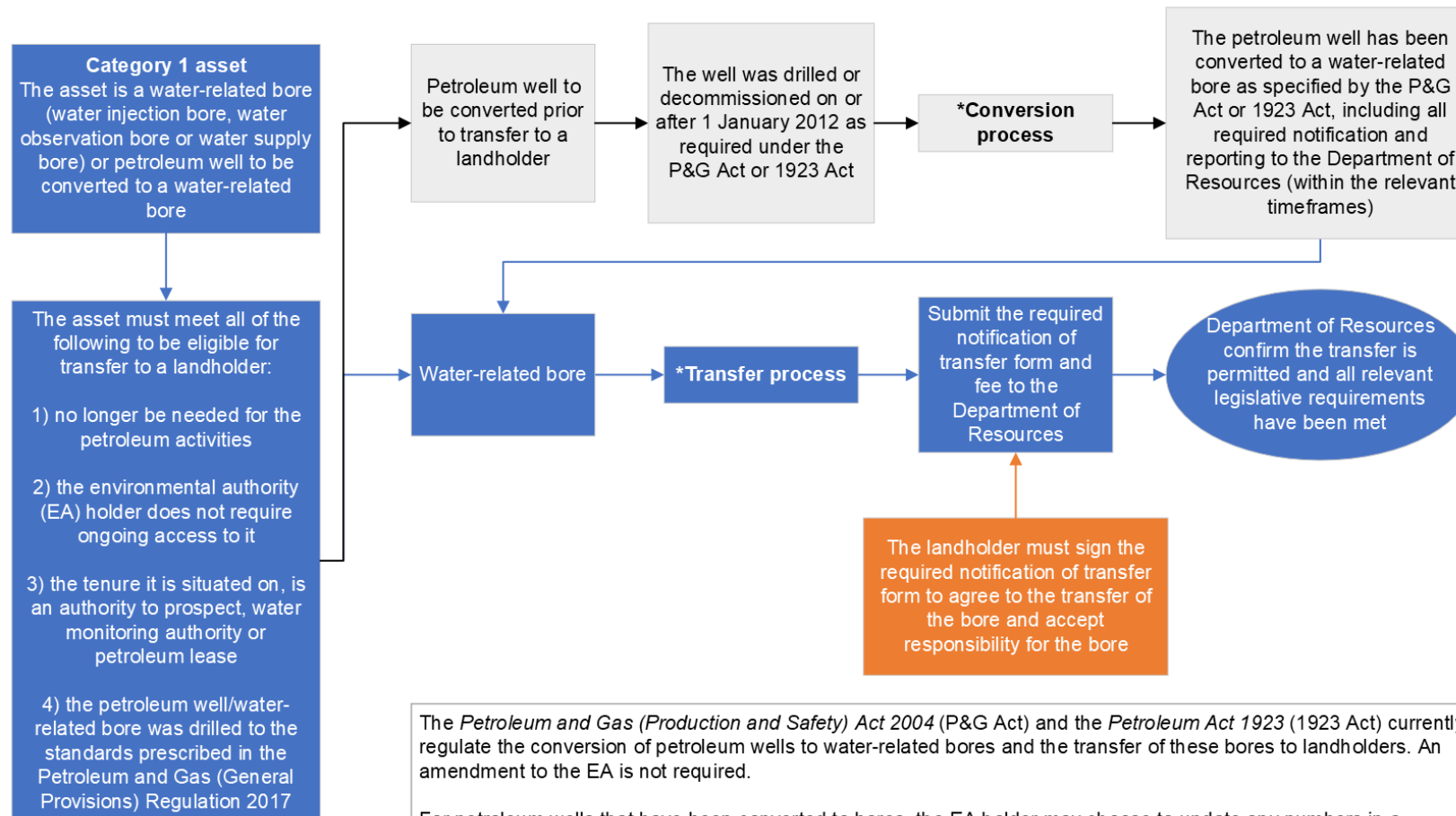
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Version history

Version	Date	Description of changes
1.00	16 September 2020	First publication
1.01	04 May 2022	Facsimile number removed
2.00	07 December 2023	Updates to clarify the requirements for the transfer of dams (including regulated structures) that will continue to receive inflows of associated water (including coal seam gas water) after the infrastructure is transferred to the landholder
2.01	21 February 2024	Updated to align with the MOG

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Appendix A—Process for transfer of category 1 assets



Category 1 asset
The asset is a water-related bore (water injection bore, water observation bore or water supply bore) or petroleum well to be converted to a water-related bore

The asset must meet all of the following to be eligible for transfer to a landholder:

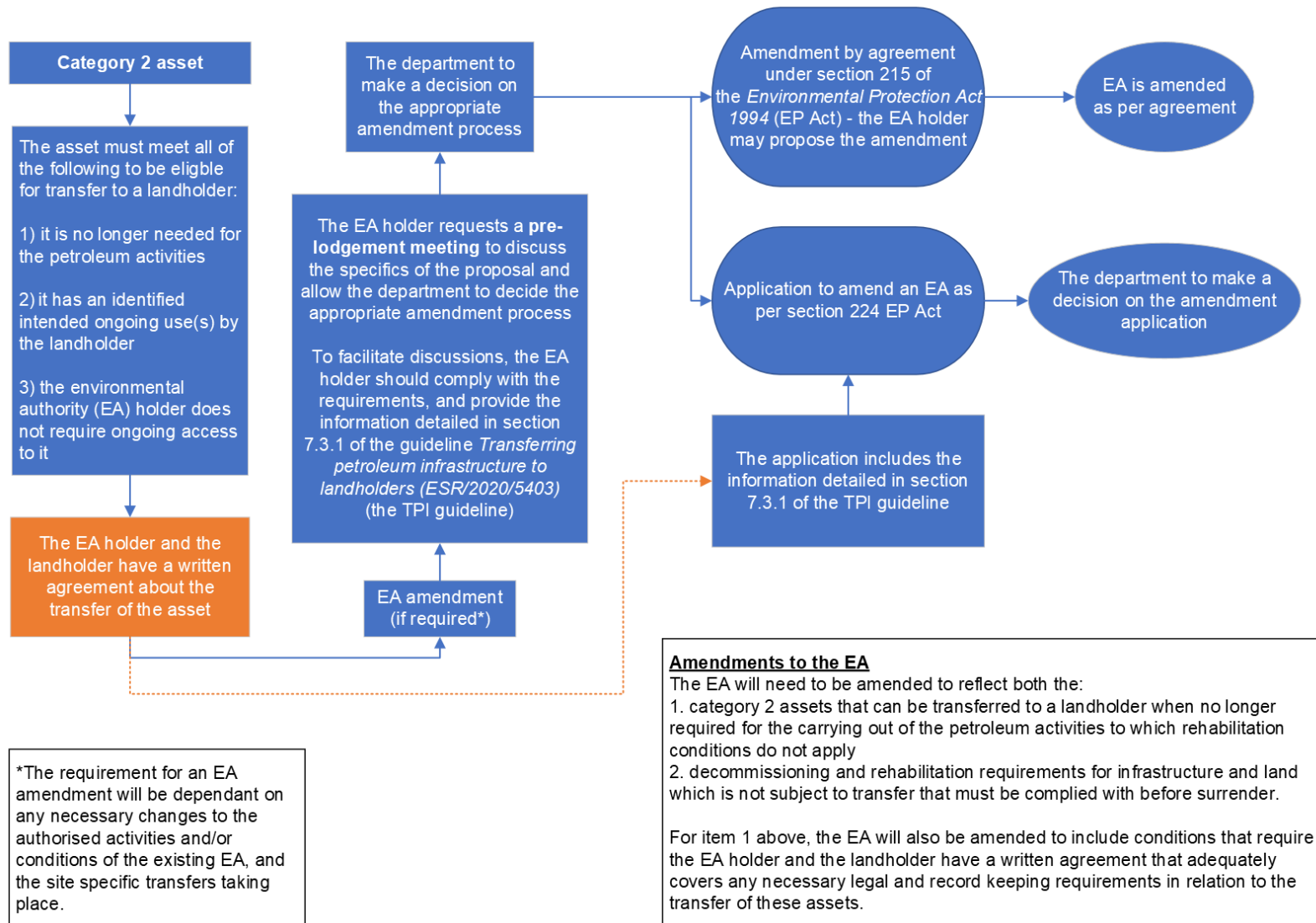
- 1) no longer be needed for the petroleum activities
- 2) the environmental authority (EA) holder does not require ongoing access to it
- 3) the tenure it is situated on, is an authority to prospect, water monitoring authority or petroleum lease
- 4) the petroleum well/water-related bore was drilled to the standards prescribed in the Petroleum and Gas (General Provisions) Regulation 2017

The *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) and the *Petroleum Act 1923* (1923 Act) currently regulate the conversion of petroleum wells to water-related bores and the transfer of these bores to landholders. An amendment to the EA is not required.

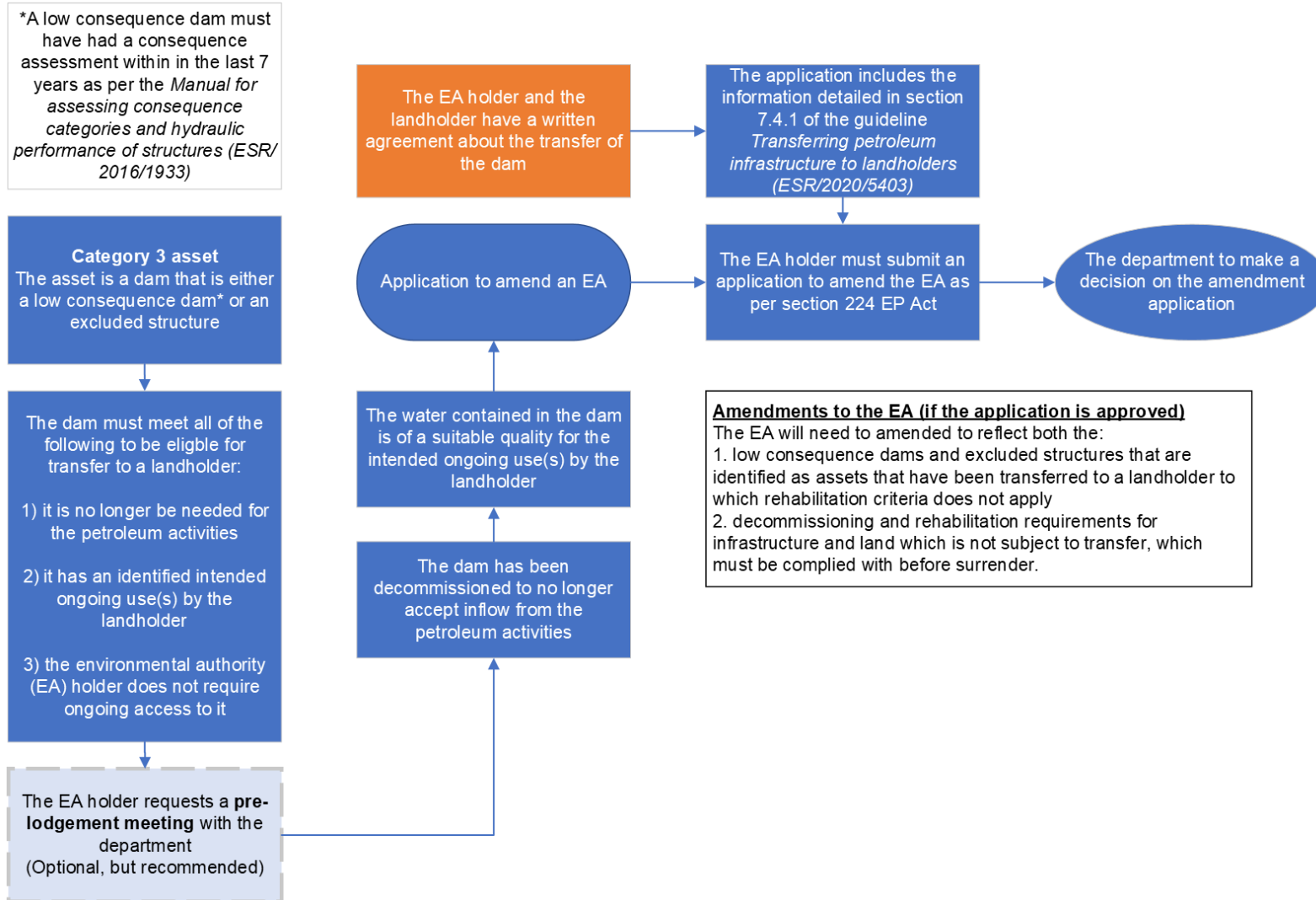
For petroleum wells that have been converted to bores, the EA holder may choose to update any numbers in a scoping table either by amendment by agreement (section 215 of the Environmental Protection Act 1994 [EP Act]) or by applying to amend their EA (under section 224 of the EP Act) (optional).

*Information about the conversion of petroleum wells to water-related bores and transferring ownership of a water-related bore to a landholder is available on the Business Queensland website at www.business.qld.gov.au.

Appendix B—Process for transfer of category 2 assets



Appendix C—Process for transfer of category 3 assets



Appendix D—Process for transfer of associated water structures

