

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 farming and **landholders** differ to the tenement holder. The Queensland Government recognises the value of certain on-farm petroleum infrastructure to landholders and supports the retention and transfer of these assets for agricultural and other purposes, providing certain circumstances are met.

Whilst the transfer of petroleum assets may occur after the environmental authority (EA) has been surrendered, it may be desirable for this to happen prior to surrender and when the EA holder no longer requires access to the infrastructure for the carrying out of petroleum activities.

As part of any transfer process, the EA holder and the Department of Environment and Science 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.

Early discussions between the petroleum company and landholder are strongly encouraged during the planning phase of a resource project. This will ensure that 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. This information, such as a plan showing post-resource activity land use and retained infrastructure can then be provided at the application stage and provided for in any EA.

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 on-going 'use' of the infrastructure (*i.e.*, it is an 'asset') to the landholder.

Petroleum infrastructure 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) is excluded from this streamlining process. This is to ensure that cumulative impacts to landscape values (including visual amenity) and significant net loss of high value vegetated areas and habitats do not occur.

This guideline has been developed to assist in streamlining 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 6 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 a petroleum company wishes to transfer infrastructure that is not listed in this guideline, they may still work with the department to do so, utilising any relevant and available legislative provisions in the EP Act to allow the transfer to occur.

The streamlining process is detailed in this guideline and is summarised in the appendix.

Terms that are defined in this guideline are **bolded** as they first appear and listed in full in section 8.

2 Petroleum assets that can be transferred

Petroleum infrastructure that is considered an asset and 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 than can be transferred prior to EA surrender

Petroleum Asset	Category
<ul style="list-style-type: none"> • Water supply bores • Water observation bores • 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 storage containers including: <ul style="list-style-type: none"> ○ Fabricated or manufactured tanks and containers; ○ Sumps and 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 • Structures that are excluded (“excluded structures”) from the <i>Manual for assessing consequence categories and hydraulic performance of structures</i> (ESR/2016/1933)¹ (the Manual) 	3
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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 Petroleum infrastructure that cannot be transferred

Petroleum infrastructure that is specifically excluded from the process in this guideline includes:

- Borrow pits;
- Infrastructure that at the time of construction by the EA holder was located in an ESA;
- 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; and
- Waste injection bores.

The department has excluded this infrastructure² from this guideline for the following reasons:

- The infrastructure may carry a medium to high risk of environmental harm (including cumulative impacts);
- 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; and/or
- 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 need a more detailed case-by-case application and assessment process, separate to the process outlined in this guideline. In this event, the EA holder is encouraged to request a pre-lodgement meeting with the department to identify any specific requirements and processes for the transfer/s to occur.

5 Considerations by the department

5.1 Category 1 assets

The transfer of converted petroleum wells, 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.

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.

² The department may review these exclusions at a later date.

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The conversion and transfer process can only occur if:

- For conversion of a petroleum well, the well was drilled as required under section 281 or decommissioned under section 292 of the P&G 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 2018³.

Numerous documentations are required under the P&G Act and 1923 Act for converting a petroleum well including a well completion report, notice of intent and notice of conversion. These are to be submitted to the administering authority of those acts who decides the conversion.

To transfer a converted petroleum well, water injection, water observation or water supply bore to a landholder, an approved form and fee is required to be submitted to the administering authority of the P&G Act and 1923 Act along with signed consent from the landholder for approval.

As the transfer of converted petroleum wells, water injection bores, water observation bores and water supply bores is already regulated under the P&G Act and 1923 Act, and numerous documents are required to be submitted to DNRME under that process, additional regulation to recognise the transfer by the department is not required. Further, rehabilitation requirements under the EP Act do not extend to water injection bores, water observation bores and water supply bores and so exemption from rehabilitation conditions is not required.

5.1.1 Changes to EAs for transfer of category 1 assets

The department does not need to be notified of the transfer of converted petroleum wells, water injection bores, water observation bores and water supply bores to the landholder and unless the EA lists the number of petroleum wells (e.g., in a scoping table), an EA amendment will not be required. Where there is a scoping table listing the number of petroleum wells, it would be best practice to ensure the EA is amended to reflect the conversion/s. In order to streamline such updates to the EA, the department may consider initiating an amendment by agreement under the EP Act or the applicant may initiate the change by applying for an amendment.

It is recommended that EA holders arrange for a pre-lodgement meeting with the department to discuss any potential updates and indicate whether they would be willing to consider an amendment by agreement if proposed by the department.

It is also recommended that copies of documentation submitted to DNRME for conversions and transfers be kept by the EA holder for record keeping purposes, to support any amendments by agreement that may occur to reflect converted petroleum wells, and in the event the transfer needs to be demonstrated to the department for compliance purposes.

5.2 Category 2 assets

Category 2 assets include a range of infrastructure. The infrastructure must be free of contaminants. It is also of a type that generally carries a lower environmental risk that is unlikely to cause unstable or unsafe land or on-going

³ 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.

pollution. Providing the requirements of the EP Act and recommendations in this guideline are met, category 2 assets can remain in place without rehabilitation and be transferred to the landholder before surrender.

Note that some liquid storage facilities fall within category 2 assets. These must be empty and have been professionally cleaned in order to be classed as a category 2 asset. Storages 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), and sumps and earthen pits used to store residual drilling material and drilling fluid only for the duration of drilling and well completion activities are not considered 'regulated structures' under the department's policy framework. The Manual and guideline, Structures which are dams or levees constructed as part of environmentally relevant activities (ESR/2016/1934)¹ do not apply to these facilities due to their lower environmental risk. Potential impacts are managed by conditions other than the model conditions for regulated structures contained in the regulated structures guideline.

5.2.1 Changes to EAs for transfer of category 2 assets

In order to transfer category 2 assets to a landholder before surrender, the asset must no longer be required for the carrying out of the petroleum activities. This extends to the EA holder no longer requiring access to the asset.

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 of some sort. These conditions are required to be complied with before a surrender can be approved.

As a result, the EA will need to reflect two outcomes:

1. Category 2 assets that can be transferred to a landholder when no longer required for the carrying out of the petroleum activities (where rehabilitation criteria will not apply), and
2. Category 2 assets that will need to be removed and rehabilitated as per the rehabilitation conditions in the EA, prior to surrender.

A suite of model conditions that may be used for the transfer of assets is provided in section 7 of this guideline. The model conditions allow for the transfer of category 2 assets during the life of the petroleum activities and further amendments at each transfer will not be required. Model conditions for category 2 assets include conditions requiring that the EA holder and the landholder confirm they have an agreement that adequately covers any necessary legal requirements, and the keeping of records.

5.3 Category 3 assets

5.3.1 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 for three failure event scenarios: overtopping, seepage and dam break as per the Manual. 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, exempt 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 is adequate for an identified intended on-going use by the landholder, will be managed appropriately, and is safe, stable, non-polluting and able to support the post-activity land use at the time of transfer.

5.3.2 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. They cannot be levees.

All low consequence dams should have at least one consequence assessment as this assessment is required prior to the construction of any structure 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 thresholders 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 the structure is:

- Assessed as being a low consequence dam (and not a high or significant category);
- Adequate for an identified intended on-going use;
- Will be managed appropriately; and is
- Safe, stable, non-polluting and able to support the post-activity land use at the time of transfer.

5.3.3 Changes to EAs for transfer of category 3 assets

In order to transfer category 3 assets to a landholder prior to surrender, the asset must no longer be required for the carrying out of the petroleum activities. This extends to the EA holder no longer requiring access that the asset.

Excluded structures are not generally expressly authorised in an EA. Low consequences structures may be but are not always identified in an EA (*e.g.*, in a scoping table). More commonly, EAs will contain an existing

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streamlined model condition ('SMC') or petroleum exploration standard condition that allows the transfer of stated dams that are being, or intended to be utilised by the landholder. The requirements for the transfer to the landholder under such conditions are that the:

- (a) Landholder has agreed in writing;
- (b) Dam has been decommissioned to no longer accept inflow from the petroleum activity(ies); and
- (c) Contains water of quality suitable for the intended on-going use(s) by the landholder.

More information about SMCs and petroleum exploration standard conditions is available in the guideline, *Streamlined Model Conditions for Petroleum Activities* (ESR/2016/1989)¹ and *Eligibility criteria and standard conditions Petroleum exploration activities – Version 2* (EM928)¹.

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

For an EA holder to transfer category 3 assets and be excused from the rehabilitation conditions for that asset and the land where it is located, the EA will need to identify:

1. Excluded and low consequence dams that are identified as assets that have been transferred to a landholder to which rehabilitation criteria does not apply; and
2. Decommissioning and rehabilitation requirements for infrastructure and land which is not subject to transfer, which must be complied with before surrender.

A suite of model conditions that may be used for the transfer of category 3 assets is provided in section 7 of this guideline. The model conditions allow specific exemption from rehabilitation conditions for those assets and associated land on which they are located. Amendments will be required for each transfer of a category 3 asset.

6 EA amendments for transfer of petroleum assets

The EP Act prescribed numerous ways for an EA amendments to occur including:

- Agreement with the EA holder under section 215(1)(b);
- Application made by the EA holder under section 224, which is assessed by the department as a minor amendment;
- Application made by the EA holder under section 224, which is assessed by the department as a major amendment.

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 by 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.

The definition of a minor amendment is prescribed in section 223 of the EP Act. An amendment to allow for a transfer of petroleum infrastructure to a landholder will generally be minor where there is no:

- Change to a standard condition;
- Significant increase in the level of environmental harm caused by the activity;

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- Change of any rehabilitation objectives stated in the EA in a way likely to result in significantly different impacts on **environmental values** than the impacts previously permitted under the authority.

If the amendment application is not minor, it is considered a major amendment.

To the extent of the matters the subject of the application, a major amendment is subject to a more detailed information request and assessment process. The department must also decide whether public notification is required. This decision is generally made after considering the specifics of the proposed amendment in relation to the activities authorised in the current EA.

It is unlikely that public notice will be required for the transfer of petroleum assets given that the asset and land must be shown to be safe, stable and non-polluting. There can be no increase in the concentration or quantity of contaminants released and there cannot be any increased risk of environmental harm because of the transfer to trigger the public interest. In addition, if public notice was required for the initial application, and if the EA contains the SMC /standard condition already allowing a transfer of a dam to a landholder, then public notification for the transfer will be unlikely to be required a second time.

There may be situations when an EA amendment is not required for the transfer of petroleum assets because the EA conditions already provide for this. As such, there may be sections of the guideline that are not applicable. For example, if an EA holder has SMC 'Rehab 8' prescribed on an EA, they are already able to transfer a dam to a landholder or overlapping tenure holder. No EA amendment will be required should only dams be transferred. However, as previously stated, rehabilitation obligations apply to EA holders for all infrastructure and associated land other than that which is authorised to remain and be transferred. Therefore, even if SMC 'Rehab 8' was prescribed in the EA, in the event an asset other than a dam was to be transferred, the EA would need to be amended to expressly remove those rehabilitation obligations from applying to the asset and the land on which it is located.

6.1 Pre-lodgement meetings for transfer of category 2 and 3 assets

The department offers pre-lodgement meetings for applicants seeking direction and advice regarding applications and this is strongly recommended when an EA holder wishes to transfer assets to a landholder prior to surrender of the EA and tenure, or amend their EA to expressly provide for the transfer of petroleum assets to landholders. At these meetings, EA holders can identify the type of assets to be transferred, the conditions that may need amendment and the nature of any resultant amendments. 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 under section 215 of the EP Act or whether an amendment application is necessary.

6.2 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 documentation and approvals from DNRME can be submitted to the department to demonstrate the conversion.

6.3 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;
- Has complied with this guideline and provided the information detailed in section 6.3.1;

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- Has clearly identified *all* proposed changes to the EA including any changes to the scoping table;
- Has not proposed any variations to the model conditions or if so, has discussed these with the department in pre-lodgement and changes have been agreed upon in advance; and
- 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, amendments can be applied for under section 224 of the EP Act.

Only one successful amendment application will be required to obtain model conditions for the transfer of category 2 assets as these conditions apply for the life of the petroleum activities. They include criteria for the transfers to occur when, and as required by the EA holder and landholder without further consultation with the department. The model conditions for category 2 assets will exclude the asset and the land from final rehabilitation requirements at surrender. Amendments to any scoping table included in the EA may also be required.

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

In order 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 agreement between the EA holder and the landholder, including:
 - (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 asset/s 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) On-going asset maintenance requirements;
 - (f) Asset emergency response and contingency advice; and
 - (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 on-going 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.

6.4 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 excluded structures and/or low consequence dams and the holder will be excused from the rehabilitation conditions for that asset and the land. Amendments to any scoping table included in the EA may also be required.

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

In order to streamline the amendment process (and 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. 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 6 months which verifies and validates the sound construction, condition and operation of the structure which includes:
 - (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; and
 - (g) Any potential implications for on-going 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 contain associated water – a written statement demonstrating how the requirements of the following will be met:
 - (a) End of Waste Code for Associated Water (including coal seam gas water) ENEW07547018 (ESR/2019/4713)¹ including producer registration, water quality criteria and the conditions of use in Tables 1 and 2; and/or
 - (b) End of Waste Code for the Irrigation of Associated Water (including coal seam gas water) ENEW07546918 (ESR/2019/4712)¹ including the requirements in sections 6, 7 and if applicable, section 8.
7. 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.
8. And 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; and
 - (e) Historical water quality monitoring data.
9. Confirmation that the landholder has received the information in items 3 – 7 inclusive, and if relevant, 8.

6.5 Annual returns, estimated cost of rehabilitation and plans of operations

The transfer of petroleum assets to landholders may affect the estimated rehabilitation cost (ERC) for the authorised activities. If so, this must be reported to the department in the annual return for the EA. In accordance with section 304 of the EP Act, the EA holder must then reapply for an ERC decision with 10 business days after giving the annual return to the department.

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.

7 Streamlined model conditions for transfer of petroleum assets

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

7.1 Model 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 subject to conditions (<Insert final rehabilitation acceptance condition numbers in the rehabilitation schedule> in this environmental authority, or
- (b) Agreed to in writing by the landholder to remain in-situ and under 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; and

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- (b) The landholder has agreed in writing to the transfer in a documented agreement that is of legal standing; and
- (c) Records are kept of each asset transferred to the landholder.

ATO3

Records of each asset transferred to a landholder must be current and complete on any given day.

Definition for model condition ATO1:

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.

7.2 Model conditions for transfer of category 3 assets

ATD1

Other than the **excluded structures** and **low consequence dams** specified in Table <Insert table number>, when no longer required for the carrying out of the petroleum activity(ies), all excluded structures and low consequence dams must be decommissioned to no longer accept inflow from the petroleum activity(ies) and be rehabilitated subject to conditions <Insert final rehabilitation acceptance condition numbers in the rehabilitation schedule> in this environmental authority.

Table <Insert table number>

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

Definitions for model condition ATD1:

Excluded structure/s means the structures excluded from the requirements for a consequence category assessment as per the Manual, and if they comply with (a) or (b):

(a) The structure is constructed to:

- i. contain fluids for no longer than 24 months;
- ii. store less than 2.5ML of fluids;
- iii. minimise the site-specific risks of seepage;
- iv. minimise passage of the wetting front; and
- v. allow the structure to be managed in a way that first prevents then minimises the potential of fluids overtopping.

(b) The structure is constructed to:

- i. contain fluids for no longer than 24 months;
- ii. store between 2.5ML and 5ML of fluids;
- iii. minimise the site-specific risks of seepage;
- iv. meet a site-specific or pro-forma certification of a design plan to contain the wetting front; and
- v. allow the structure to be managed in a way that first prevents then minimises the potential of fluids overtopping.

Excluded structures include structures used to contain wastewater from stimulation activities (e.g., fracc flowback water) if they meet the above requirements AND the structure is certified by a suitably qualified and experienced person (i.e., RPEQ) as being able to contain the wetting front. As an alternative to the RPEQ certifying the structure as being able to contain the wetting front, a suitably qualified and experienced person may certify a 'pro forma' design that will contain the wetting front.

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**.

7.3 Variations to the model conditions

The EA holder can request variations of the model conditions if an amendment application is made under section 224 of the EP Act. The administering authority may also find it necessary or desirable to vary the wording in certain circumstances. In both situations, the decision to use model conditions and/or vary them is subject to the discretion of the delegate of the administering authority and the requirements in the EP Act.

8 Glossary

Category 1 assets means only the following:

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

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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.

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 the Manual, and if they comply with (a) or (b).

- (a) The structure is constructed to:
 - i. contain fluids for no longer than 24 months;
 - ii. store less than 2.5ML of fluids;
 - iii. minimise the site-specific risks of seepage;
 - iv. minimise passage of the wetting front; and

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- v. allow the structure to be managed in a way that first prevents then minimises the potential of fluids overtopping.

(b) The structure is constructed to:

- i. contain fluids for no longer than 24 months;
- ii. store between 2.5ML and 5ML of fluids;
- iii. minimise the site-specific risks of seepage;
- iv. meet a site-specific or pro-forma certification of a design plan to contain the wetting front; and
- v. allow the structure to be managed in a way that first prevents then minimises the potential of fluids overtopping.

Excluded structures include structures used to contain wastewater from stimulation activities (e.g., fracc flowback water) if they meet the above requirements AND the structure is certified by a suitably qualified and experienced person (i.e., RPEQ) as being able to contain the wetting front. As an alternative to the RPEQ certifying the structure as being able to contain the wetting front, a suitably qualified and experienced person may certify a 'pro forma' design that will contain the wetting front.

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, published by the Queensland Government. Low consequence category structures do not include **excluded structures**.

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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.
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

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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
- 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

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(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 and Science should satisfy themselves independently and by consulting their own professional advisors before embarking on any proposed course of action.

Approved:

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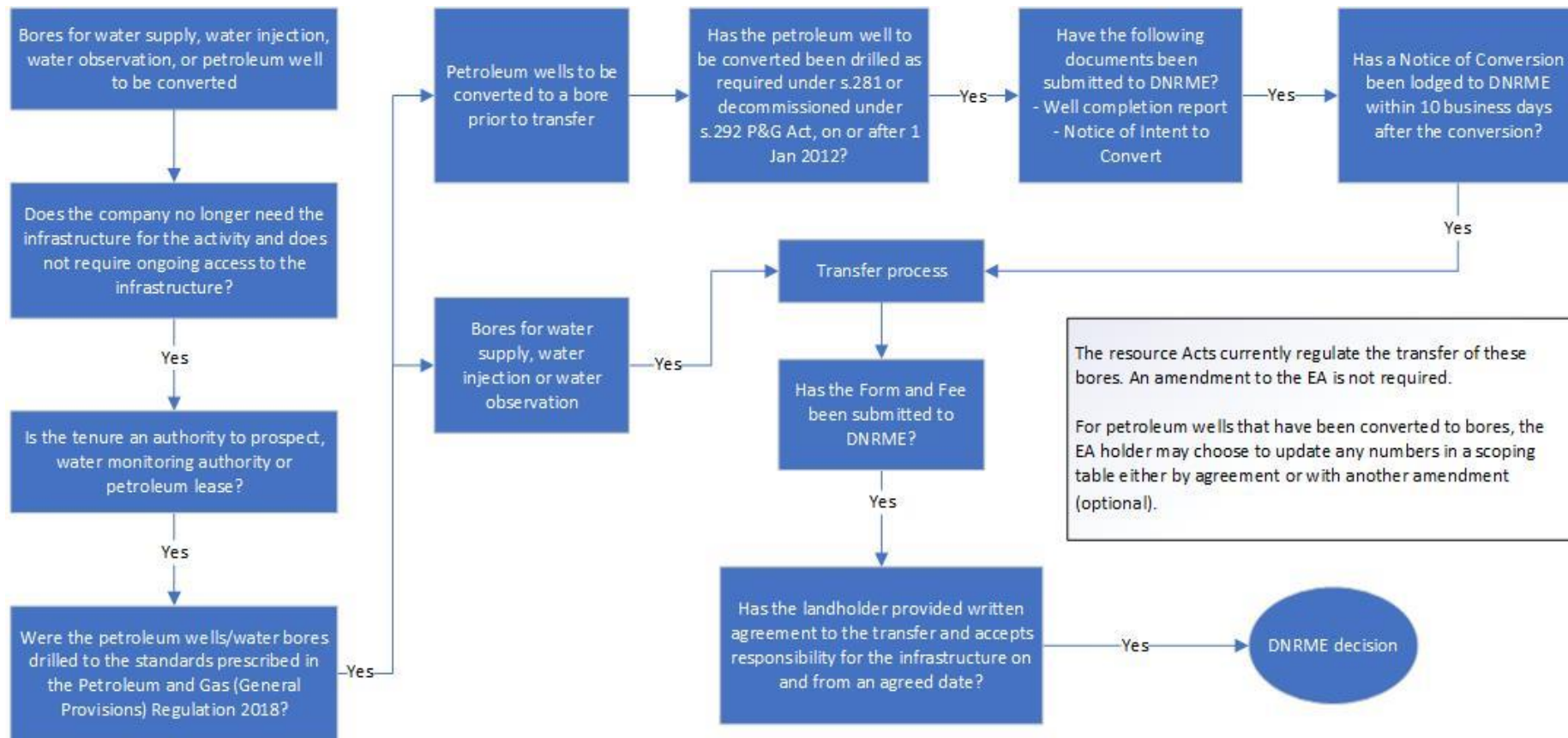
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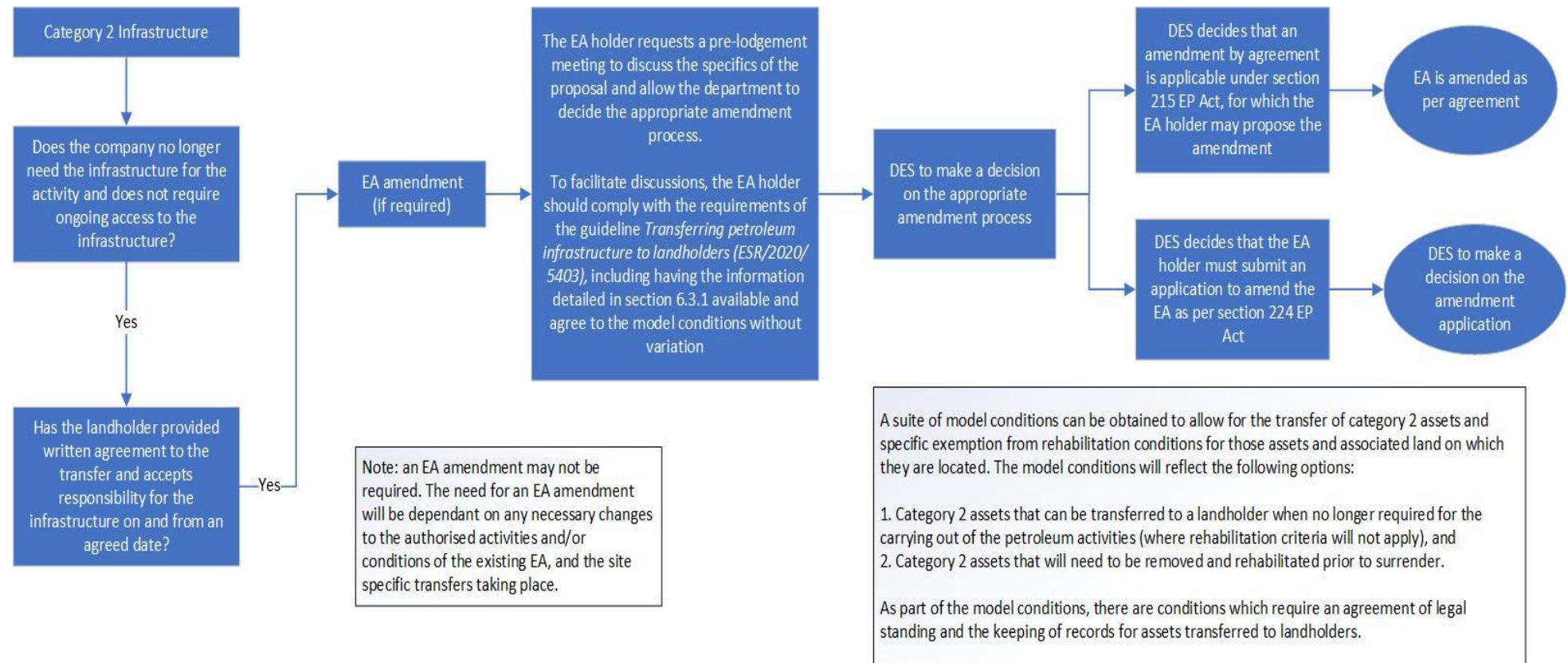
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Appendix - Process maps

Appendix A - Process for transfer of category 1 assets



Appendix B - Process for transfer of category 2 assets



Appendix C - Process for transfer of category 3 assets

