



Government of **Western Australia**  
Department of **Environment Regulation**

REPORT

# Quarterly reporting

*Quarter 4 2013–14*

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As part of the changes to machinery of government the Department of environment and Conservation (DEC) was separated on 1 July 2013 into two agencies: the Department of Environment Regulation (DER) and the Department of Parks and Wildlife (DPaW). Any information in this report for the period up to 30 June 2013 relates to activities under the former DEC.

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# Introduction

On 1 July 2013 the former Department of Environment and Conservation separated into two government departments, the Department of Parks and Wildlife and the Department of Environment Regulation (DER).

DER is a regulatory agency responsible for administering environment legislation.

The following legislation administered by DER is relevant to the quarterly report:

- *Contaminated Sites Act 2003* (CS Act);
- *Environmental Protection Act 1986* (EP Act); and
- *Waste Avoidance and Resource Recovery Act 2007* (WARR Act).

DER has adopted a multi-faceted approach to delivering its regulatory role, which broadly fits into three main functions:

- approvals and licensing supported by education, policy and science;
- monitoring, audit and compliance inspections; and
- enforcement, including complaint and incident investigation.

DER has responsibility under Part V of the EP Act for the licensing and registration of prescribed premises, clearing permits, and administration of a range of regulations.

DER also monitors and audits compliance with works approvals, licences, clearing permits, and their conditions and regulations. Enforcement action, is taken as appropriate.

Under the CS Act, DER regulates contaminated sites by receiving reports of known or suspected contaminated sites, assessing and classifying contaminated sites, maintaining public information on contaminated sites, and ordering and monitoring remediation.

Under the WARR Act metropolitan landfill operators are required to report and pay a landfill levy quarterly on the amount of waste received. DER monitors and enforces compliance with these requirements.

DER plans its industry regulation compliance activities annually, setting inspection targets and reporting on its performance. DER aims to be an effective regulator, using a balance of proactive engagement and enforcement tools to achieve appropriate environmental outcomes in industry regulation.

DER's quarterly report provides information on the Department's targets, performance, activities and outcomes for the following functions:

- works approvals and licences—number and timeliness of works approvals and licences granted for major resource and other projects, and controlled waste licences;
- environmental compliance—industry regulation proactive compliance inspection program;
- native vegetation clearing permits—number and timeliness of decisions on clearing permit applications made by DER and the Department of Mines and Petroleum (through delegation under the EP Act);
- contaminated sites—number of classifications of reported known or suspected contaminated sites, and number and timeliness of review of mandatory auditor's reports; and
- environmental enforcement—statistical and supporting information outlining DER's enforcement activity and outcomes.

# 1. Works approvals and licences

## 1.1 Introduction

DER grants works approvals and licences to regulate prescribed activities, as authorised under Part V of the EP Act.

DER is well advanced in introducing further licensing reform in its Part V approvals process that should result in a more streamlined and timely approvals process and certainty of outcome. Reform initiatives include the Re-Engineering for Industry Regulation and Environment (REFIRE) program and improvements to application processes.

## 1.2 Performance

### Major resources projects

DER (including its predecessor agencies) has tracked and reported its performance in deciding major resource project approvals since the first quarter of 2006. A 'decision made' means an application for a works approval or licence has been granted or refused.

For major resource project approvals, DER has set a target to decide 100 per cent of works approval and licence applications within 60 working days.

The quarterly figures for major resource project works approval and licence applications are summarised in tables 1.1 and 1.2.

During the fourth quarter of 2013–14, 29 new works approval applications were submitted compared with 19, 32 and 36 in the preceding quarters.

Thirty-three works approvals were decided, three more than the number decided in the previous quarter.

DER decided 94 per cent of new works approval applications in the fourth quarter of 2013–14 within the target time frame. This is an increase in percentage since the preceding quarter (90 per cent) and is the second highest percentage since the first quarter of 2013–14.

The average processing time for works approval applications during the fourth quarter of 2013–14 has decreased slightly from 53 days to 50 days.

Seven new licences applications were received in the fourth quarter of 2013–14 and five licences were decided, which is one more than the number decided in the previous quarter. The percentage of new licence applications within the target time frame remains steady at 100 per cent.

Figures 1.1 and 1.2 provide a quarterly summary, since the first quarter 2013–14, for major resource project approvals decided by DER, the average time taken to decide applications, and DER's performance in meeting the time frame.

**Table 1.1 Major resource project works approval applications**

	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
Carried over from previous quarter	44	23	35	39
New	19	32	36	29
Granted	40	20	30	33
Awaiting Part V action	16	25	35	26
Refused	0	0	0	0
Withdrawn	0	0	2	0
Open at end of quarter	23	35	39	35
Percentage decided meeting target time frame*	92	95	90	94
Average time to decide (working days)	48	49	53	50

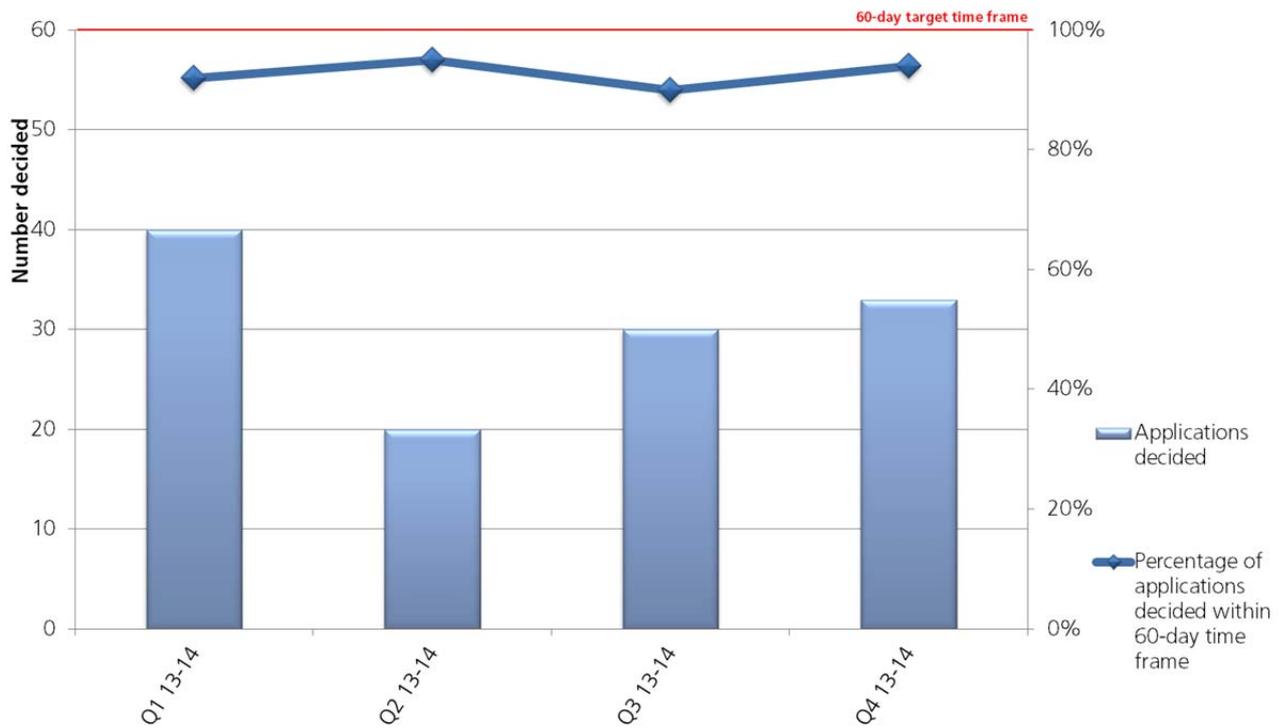
\*Target time frame = 100% of works approvals decided in 60 working days.

**Table 1.2 Major resource project licence applications**

	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
Carried over from previous quarter	27	22	20	17
New	7	5	1	7
Granted	11	6	4	5
Awaiting Part V action	3	3	0	6
Refused	0	0	0	0
Withdrawn	1	1	0	2
Open at end of quarter	22	20	17	17
Percentage decided meeting target time frame*	100	83	100	100
Average time to decide (working days)	50	45	43	35

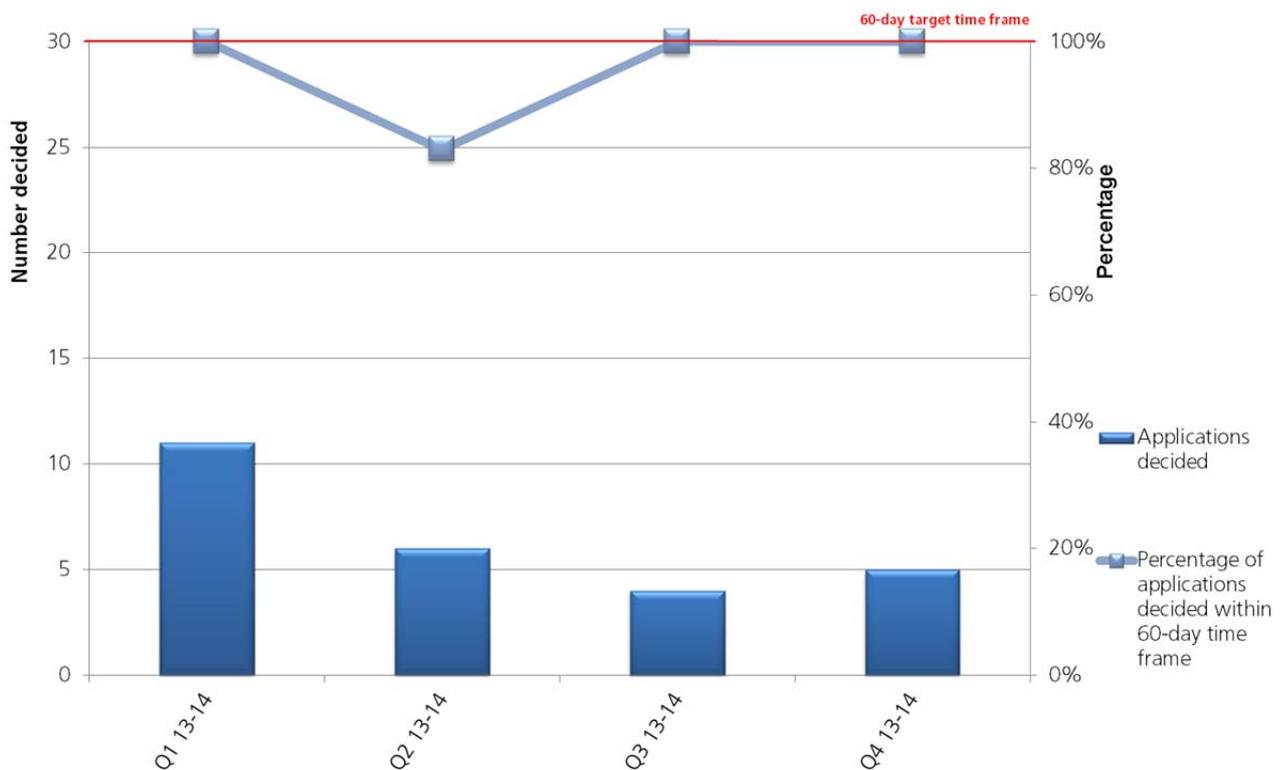
\*Target time frame = 100% of licences decided in 60 working days.

**Figure 1.1 Summary of major resource projects works approvals**



\*Target time frame = 100% of works approvals decided in 60 working days.

**Figure 1.2 Summary of major resource project licences**



\*Target time frame = 100% of licences decided in 60 working days.

## Other projects

For non-major resource project (other project) approvals, DER has set a target to decide 80 per cent of works approval and licence applications within a 60-working-day time frame.

Twenty-three other project works approval applications were decided by DER in the fourth quarter of 2013–14. The percentage of new approvals approved within the target time frame decreased from 90 to 70 per cent.

The average processing time for other project works approval applications increased during this quarter to 53 days, compared to 47 days in the previous quarter.

Seven other project licences were decided by DER in the fourth quarter of 2013–14.

Fifty-seven per cent of other project licence applications were decided within the target time frame in the fourth quarter of 2013–14. This is a decrease in percentage from the previous quarter.

The average time of 74 days to process a licence application has increased and was above the target time frame. This increase has largely been a result of one licence application taking 196 days to decide. If this licence is excluded, the average time to process a licence application is 53 days compared to 42 days in the previous quarter.

The quarterly figures for other project works approval and licence applications are summarised in Tables 1.3 and 1.4, and Figures 1.3 and 1.4.

**Table 1.3 Other project works approval applications**

	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
Carried over from previous quarter	27	29	35	43
New	21	28	31	24
Granted	19	22	20	23
Awaiting Part V action	13	19	28	23
Refused	0	0	0	0
Withdrawn	0	0	3	1
Open at end of quarter	29	35	43	43
Percentage decided meeting target time frame*	74	91	90	70
Average time to decide (working days)	49	37	47	53

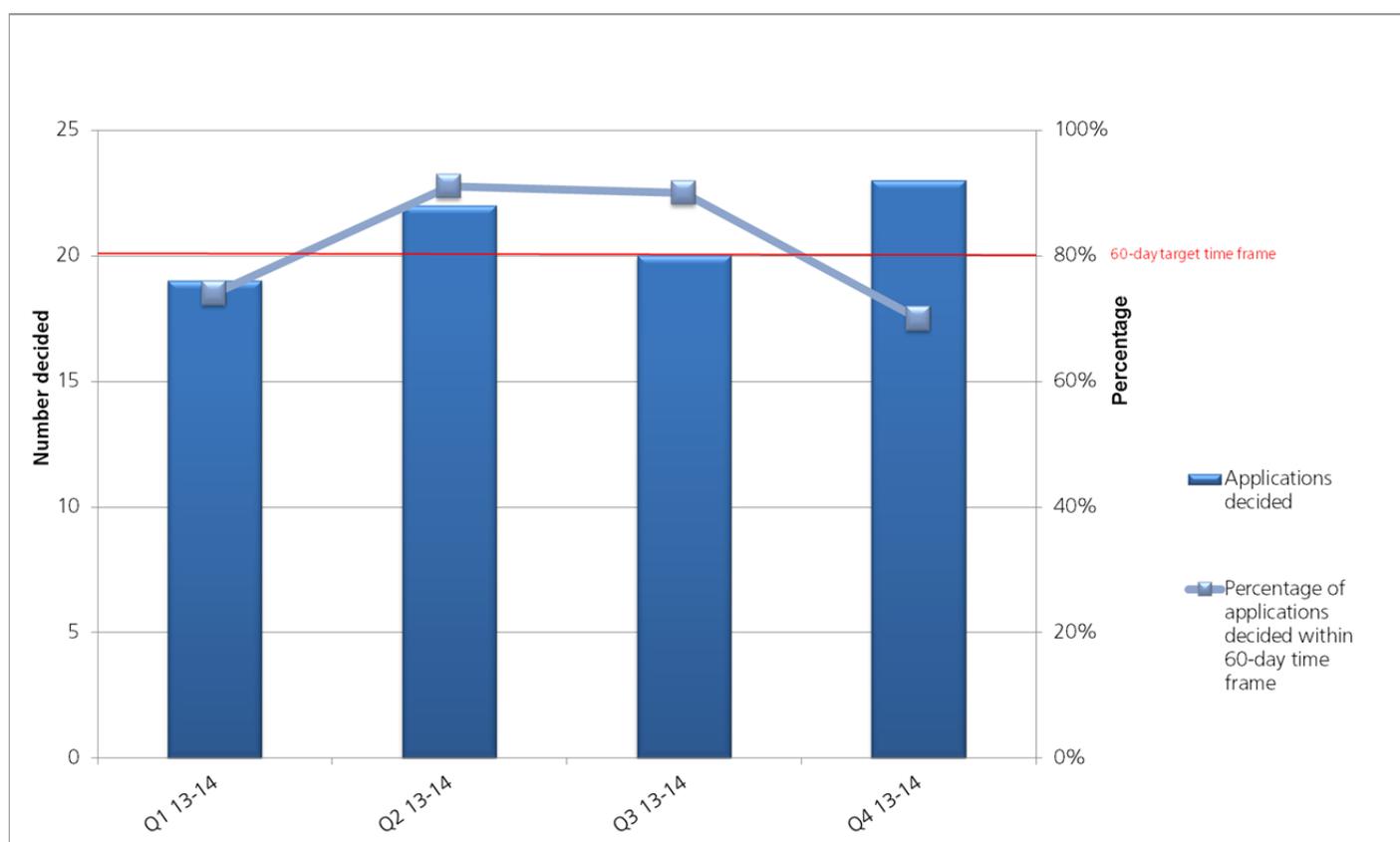
\*Target time frame = 80% of works approvals decided in 60 working days.

**Table 1.4 Other project licence applications**

	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
Carried over from previous quarter	19	17	16	15
New	16	12	7	6
Granted	17	11	8	7
Awaiting Part V action	9	9	10	4
Refused	0	0	0	0
Withdrawn	1	1	0	1
Open at end of quarter	17	17	15	13
Percentage decided meeting target time frame*	88	64	88	57
Average time to decide (working days)	39	56	42	74

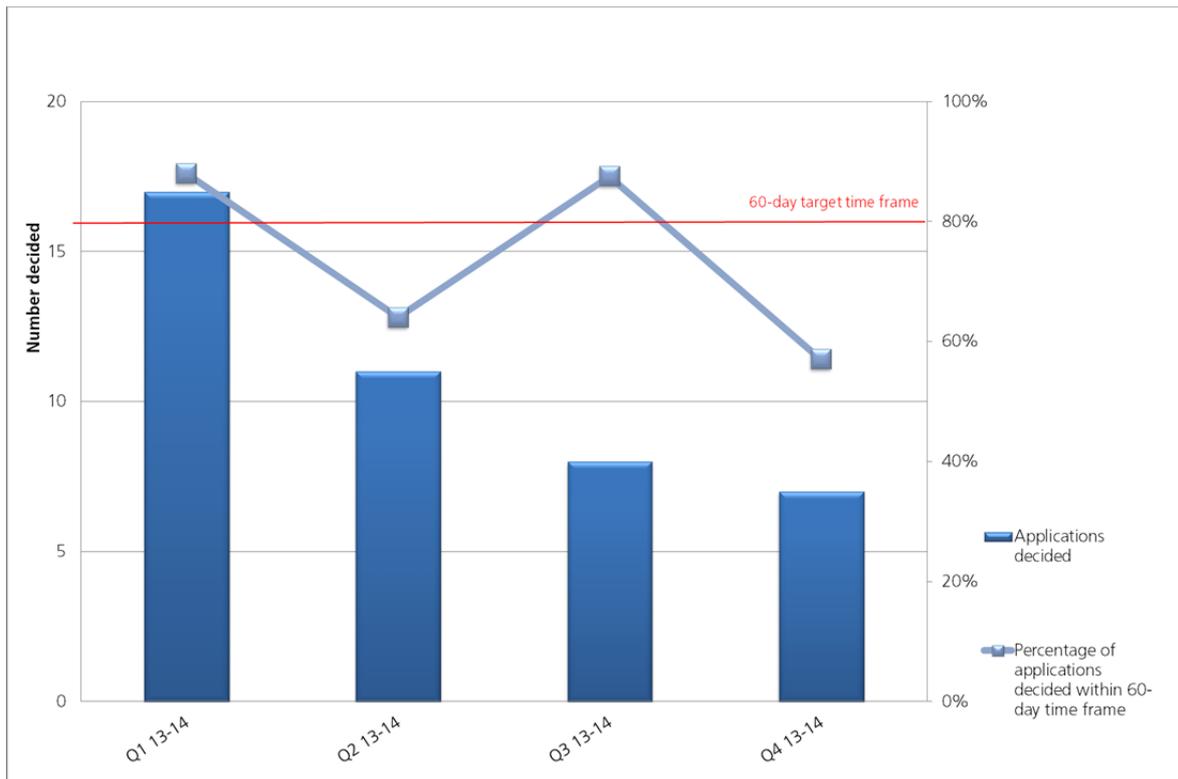
\*Target time frame = 80% of licences decided in 60 working days.

**Figure 1.3 Other project works approvals**



\*Target time frame = 80% of works approvals decided in 60 working days.

**Figure 1.4 Other project licences**



\*Target time frame = 80% of licences decided in 60 working days.

## 2. Environmental compliance

### 2.1 Introduction

DER's proactive industry regulation compliance activities are coordinated through its annual Industry Regulation Compliance program (the program).

The 2013–14 program commenced on 1 July 2013 and incorporates the four compliance streams outlined in table 2.1.

**Table 2.1 Compliance streams**

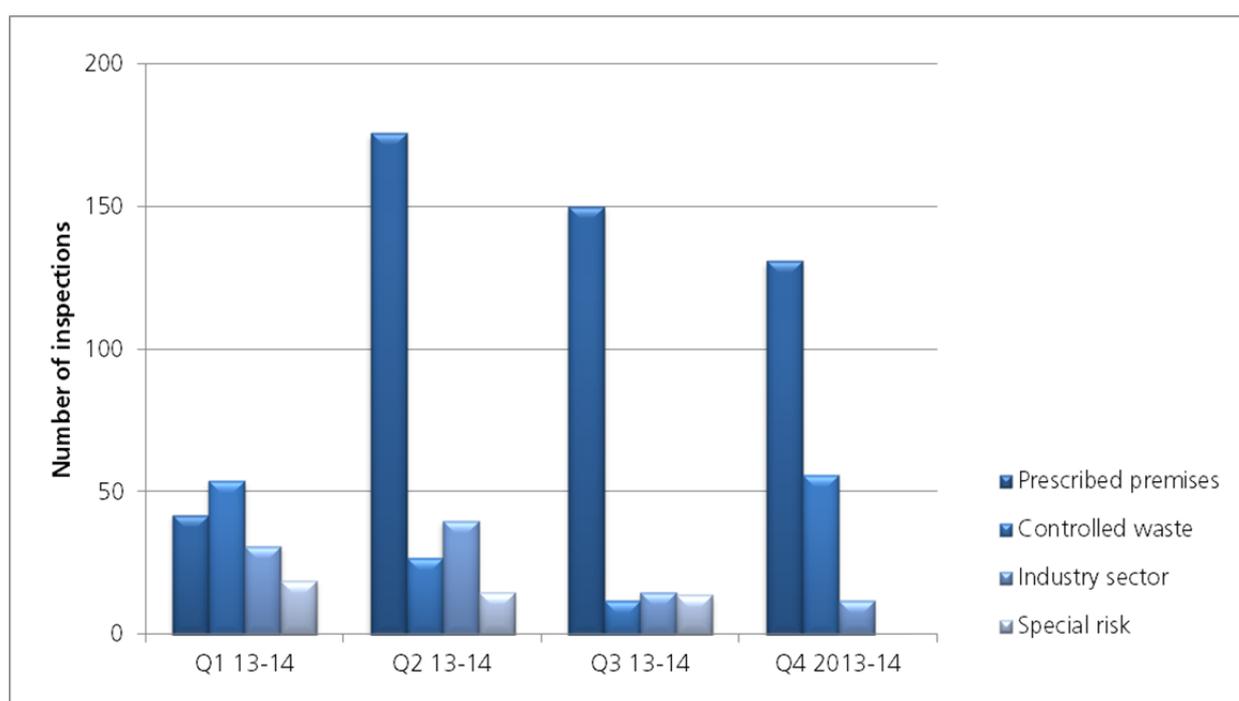
Program	Scope
Regional prescribed premises compliance program	Assessing compliance with Part V of the <i>Environmental Protection Act 1986</i> (the EP Act).
Controlled waste compliance program	Assessing compliance with the <i>Environmental Protection (Controlled Waste) Regulations 2004</i> .
Industry sector compliance program	Assessing compliance with various regulations administered by DER.
Special risk inspection program	Addressing risks presented by industries operating outside the EP Act.

### 2.2 Performance

The 2013–14 program concluded on 30 June 2014, and Figure 2.1 shows the inspections achieved for each of the four compliance streams. A breakdown

of the results of the compliance program for the 2013–14 reporting period is outlined in the following sections.

**Figure 2.1 Proactive compliance inspections over the previous four quarters**



## Progress report—Industry Regulation compliance program 2013–14

At the commencement of the 2013–14 compliance program 827 inspections were planned; however, this number was amended during the period to 758 inspections due to:

- 56 prescribed premises licences and registrations becoming inactive;
- 10 abrasive blasting and metal coating inspections being deferred pending finalisation of industry guidelines on the application of applicable regulations; and
- three special risk remote premises inspections being removed from the program.

**Table 2.2 Industry regulation compliance program 2013–14**

		2013–14 Inspection – Target	2013–14 Inspection – Actual	% Achieved
Regional prescribed premises program	<b>Prescribed premises inspections</b>	<b>499</b>	<b>499</b>	<b>100</b>
Controlled waste compliance program	General inspections	80	84	105
	Controlled waste disposal sites	10	25	250
	Targeted controlled waste industries	25	45	180
	<b>Total</b>	<b>115</b>	<b>154</b>	<b>134</b>
Industry sector compliance program	Packaged fertiliser	20	20	100
	Asbestos management in construction and demolition (C&D) recycling facilities	13	13	100
	Bulk port facilities (over the next two years compliance program)*	26	26	100
	Cattle feedlots	17	17	100
	Environmental scans of regional industrial areas	20	20	100
	<b>Total</b>	<b>96</b>	<b>96</b>	<b>100</b>
Special risk inspection program	<b>Total</b>	<b>48</b>	<b>91</b>	<b>189</b>
2013–14 program progress as at 30 June 2014		758	840	111

\* Desktop audits of ports to prepare for inspections commencing in 2014–15.

### Regional prescribed premises program

The regional prescribed premises program sets inspection targets for DER's prescribed premises across the state (excluding registered premises).

As outlined in Table 2.2 above, DER completed 100 per cent of planned inspections.

### Controlled waste regulation

The purpose of the *Environmental Protection (Controlled Waste) Regulations 2004* (the CW Regulations) is to ensure the safe and authorised transportation of controlled waste on public roads in Western Australia. The CW Regulations place obligations on controlled waste generators, carriers, drivers and disposal sites.

DER is responsible for assessing applications of new controlled waste carrier, vehicle and driver licences.

During the 2013–14 period a total of 727 applications were assessed within the 30-day statutory time frame; 133 of these being during the fourth quarter.

### **Controlled waste compliance program**

The controlled waste compliance program focuses on assessing obligations of controlled waste generators, carriers, drivers and disposal sites in accordance with the general provisions of the CW Regulations and licence conditions.

For the 2013–14 period DER completed 149 inspections under the controlled waste compliance program, exceeding the planned inspection target by 34 per cent.

### **Industry sector compliance program**

#### **Packaged fertiliser compliance program**

The *Environmental Protection (Packaged Fertiliser) Regulations 2010* (the PF Regulations) came into effect on 1 January 2011 and place obligations on packaged fertiliser manufacturers and retailers throughout Western Australia to limit the amount of nitrogen and phosphorus contained in garden, lawn and all-purpose fertilisers in packages of less than 50 kilograms.

A target of 20 inspections of retail outlets selling packaged fertiliser was set for the 2013–14 program, of which 100 per cent was achieved in the first quarter 2013–14.

DER has engaged with manufacturers of non-compliant product identified during these inspections to ensure compliance with the PF Regulations.

### **Asbestos management in construction and demolition (C&D) waste compliance program**

The guidelines for managing asbestos at construction and demolition waste recycling facilities were released on 18 December 2012, and outline procedures to manage the risk of asbestos contamination of feedstock and products at C&D waste recycling facilities.

The guidelines are applicable to any premises licensed under Schedule 1 of the *Environmental Protection Regulations 1987* that accepts, stores and/or processes C&D waste. Typically these are premises falling into the following categories:

- Category 13—Crushing of building material: premises on which waste building or demolition material is crushed or cleaned.
- Category 62—Solid waste depot: premises on which solid waste is stored, or sorted, pending final disposal or re-use.

*Category 13 asbestos guidelines compliance program:* The asbestos management in the C&D waste compliance program commenced in January 2013. Initially, licences for 17 facilities were amended to include conditions requiring phased compliance with the guidelines. One of the premises subsequently removed category 13 from their licence, leaving 16 premises in total.

The amended conditions include the submission of an assessment report, which assesses the operations at the facilities against the provisions of the guidelines and, where gaps in compliance with the guidelines are identified, provision of an environmental improvement plan.

This is the first step in the compliance management process; DER then approves the plan and monitors its implementation over a set period of time.

Following implementation of the plan, the premises is reinspected and compliance with the guidelines is assessed.

DER has assessed submissions provided by category 13 licensees, as required by their amended licences, and has undertaken site audits of each premises to verify that the licensees are operating in line with the guidelines.

This program was completed in the fourth quarter of 2013–14, with all 13 premises under the program meeting compliance with the guidelines.

Under section 4.3 of the guidelines, licensees who can demonstrate to DER that they have achieved a continuous six-month period of compliance with the guidelines, may submit a request to DER for a reduced sampling rate of recycled product produced at the premises. To date DER has received two valid applications for a reduced sampling rate.

*Category 62 asbestos guidelines compliance program:* This program commenced in November 2013 and is similar to the Category 13 program in that all Category 62 prescribed premises licences are progressively being amended to include improvement conditions, requiring the preparation and submission of an asbestos management plan consistent with the procedures outlined in the guidelines.

DER is currently engaging with applicable licensees to ensure the asbestos management plans are appropriate and consistent with the guidelines.

### ***Bulk port facilities compliance program***

The bulk port facilities compliance program commenced in the 2013–14 period and is planned to continue in the 2014–15 period.

DER has undertaken desktop audits of each port, including the collection of background data and information pertaining to imports, exports, and wastes produced and materials stored at the ports.

Following collation of this information, inspections of port facilities will commence in the 2014–15 financial year.

### ***Cattle feedlots compliance program***

Cattle feedlot facilities with 500 or more animals are prescribed premises within category 1 or 68 as outlined in the *Environmental Protection Regulations 1987*:

- Category 1—premises on which the watering and feeding of cattle occurs, being premises—
- (a) situated less than 100 metres from a watercourse; and
  - (b) on which the number of cattle per hectare exceeds 50...
- Category 68—premises on which the watering and feeding of cattle occurs, being premises—
- (c) situated 100 metres or more from a watercourse; and
  - (d) on which the number of cattle per hectare exceeds 50.

The purpose of the cattle feedlot compliance program is to ascertain the current level of compliance against the National Beef Feedlot Environmental Code of Practice, and the National Guidelines for Beef Cattle Feedlots in Australia.

Category 68 prescribed premises registrations were targeted as part of the compliance program, with 17 environmental scans planned and undertaken throughout 2013–14.

*Environmental scans of regional industrial areas compliance program*

This program has been established to assess industrial premises across regional areas against the general provisions of the EP Act and any subsidiary legislation, and promote improvements in general environmental management practices.

DER met the planned environmental survey target of 20 throughout the reporting period.

**Special risk inspection program**

The special risk inspection program is undertaken by DER's pollution response officers.

Forty-eight inspections were completed throughout Western Australia during the 2013–14 financial year.

An additional 43 inspections were completed in the Perth metropolitan area.

Pollution response officers also attended 156 incidents during the 2013–14 reporting period.

## 3. Native vegetation clearing permits

### 3.1 Introduction

#### Clearing provisions

Clearing of native vegetation requires a permit unless an exemption applies.

Under s 20 of the EP Act the Chief Executive Officer (CEO) of DER delegates decision-making on clearing applications to the Department of Mines and Petroleum (DMP) for the following activities:

- an activity under an authority granted, or a requirement imposed, under the *Mining Act 1978*, the *Petroleum and Geothermal Energy Resources Act 1967*, the *Petroleum Pipelines Act 1969* or the *Petroleum (Submerged Lands) Act 1982*; and
- an activity under a government agreement administered by the Department of State Development.

DER's clearing permit system database records the details of all clearing permit applications and decisions made for both DER and DMP, and forms the basis of the published records available on DER's website.

The quantitative information presented in the tables in this report is provided for both DER and DMP. The qualitative information in the text provides information on DER only.

Further information on the clearing provisions is available at [www.der.wa.gov.au/nvp](http://www.der.wa.gov.au/nvp).

#### Time frames

Target time frames are 80 per cent of applications to be decided within 60 calendar days of receipt, with a decision on the remaining 20 per cent within 90 calendar days.

The time frame commences from the date an application is received and ends on the day a decision is made, excluding the time in 'stop the clock'.

'Stop the clock' may only be used where there is legislative power or requirement to do so, as outlined under the section 'Clearing permits'.

A 'decision made' means an application to clear has been granted, given an undertaking to grant, refused, declined, withdrawn, amended, revoked or suspended.

### 3.2 Performance

#### Delivery status

In the first five years of the clearing provisions being contained in the EP Act, the total number of permit applications received annually was consistent at about 600.

The number of applications steadily increased over the next three financial years with 689 applications received during 2009–10, 758 applications in 2010–11 and 833 applications in 2011–12.

In 2012–13 there was a decrease in the number of applications received to 752 applications, and a further decrease in 2013–14 to 674 applications.

DER received 103 clearing permit applications this quarter.

The number of open applications at the end of this quarter decreased to 124, compared to 130 at the end of the previous quarter and 166 at the same time last year.

During this quarter, DER made 107 decisions on applications, which is lower than previous quarter's figure of 117 decisions.

The average time frame to make a decision was 38 days, which is lower compared with previous quarters of 53 for quarter one, 54 for quarter two, and 52 days for quarter three.

Of the 107 decisions made on applications, 81 clearing permits were granted within an average time frame of 54 days. Four applications for a clearing permit were refused. Of the remaining applications, 19 were withdrawn and three declined as the applications were not valid.

The ongoing relatively timely delivery of decisions on average corresponds to the risk-based approach to assessments that is based on sensitivity of the environment, magnitude of impact/s

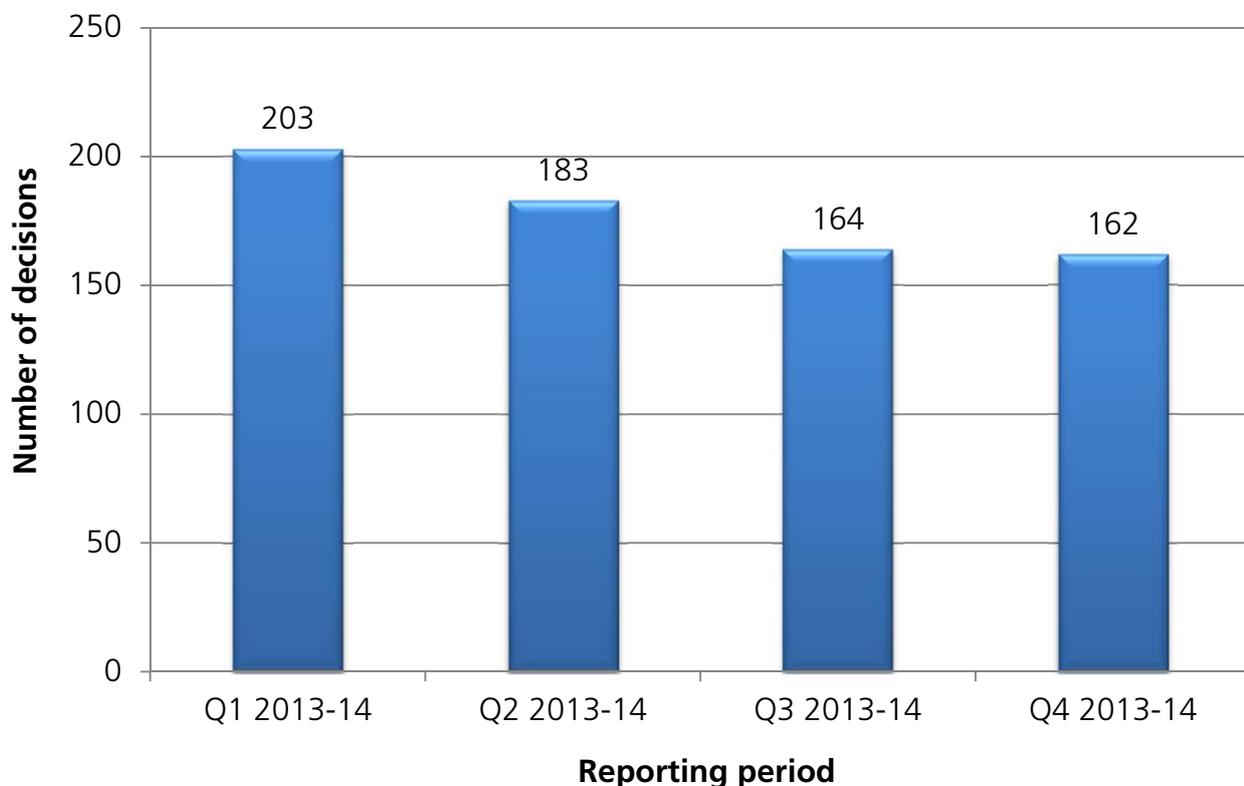
and urgency of the clearing, ongoing monitoring of performance, and the continual improvements to processes.

Overall, DER did not meet benchmark time frames this quarter, with 63 per cent of decisions made within 60 days, 31 per cent within 90 days and six per cent taking longer than 90 days.

Six applications did not meet the 90-day target time frame. Two applications were finalised within 100 days, three within 110 days and one within 120 days. These applications required modifications and further information during the assessment process.

DER is working to improve its performance in deciding clearing permit applications.

**Figure 3.1 Number of decisions made by DER and DMP in the previous four quarters**



**Table 3.1. Number of decisions made in Quarter 4 by DER and DMP by purpose**

Purpose	Number of decisions made Q4 2013–14				
	Less than or equal to 60 days	61 to 90 days	91 to 120 days	Greater than 120 days	Total
State development	50	5	1	0	56
Local government	22	5	2	0	29
Utilities	2	1	0	0	3
Agriculture / horticulture / forestry	6	11	1	0	18
Basic raw materials	4	1	0	0	5
Other development	36	13	2	0	51
<b>Total</b>	<b>120</b>	<b>36</b>	<b>6</b>	<b>0</b>	<b>162</b>

**Table 3.2 Description of clearing purpose**

Purpose	Description
State development	Clearing for purposes of mineral production, mineral exploration, petroleum production, petroleum exploration (for applications administered by DER and DMP) and other state development (including state agreements) administered under delegation by DMP.
Local government	All clearing by local government authorities. This could include purposes such as road construction and maintenance, building or structures and other infrastructure.
Utilities	Clearing by utilities including Water Corporation, Western Power, Horizon, Main Roads Western Australia, Verve Energy, Telstra, Alinta, Westnet Rail and the Public Transport Authority. This could include purposes such as infrastructure construction and maintenance, railway construction, road construction and maintenance.
Agriculture/ horticulture/forestry	Clearing for the purposes of timber harvesting, plantation, horticulture, grazing and pasture, cropping, drainage, pastoral diversification and aquaculture.
Basic raw materials	Clearing for the purposes of extractive industry (e.g. sand and gravel extraction).
Other development	All other purposes not listed above, including buildings or structures, industrial, landscaping, fire hazard reduction, geotechnical investigations and fence line maintenance.

### Clearing permits

Tables 3.3 and 3.4 on the following pages show the number of decisions that have been made on clearing permit applications by DER and DMP, including

the percentage of applications that were decided within target time frames.

Statistics are given on how many decisions were subject to 'stop the clock', and the mean time (in days) that applications were in 'stop the clock'.

'Stop the clock' may only be used where there is a legislative power or requirement to do so as follows.

### Waiting on applicant

This status is assigned when an initial assessment has been undertaken and, based on the outcome of assessment, significant environmental or planning issues have been raised such that before making a decision the CEO requires further information under s 51E(1)(d) of the EP Act.

This includes where the CEO advises the applicant that a final decision will be deferred until the applicant is able to provide evidence of planning or other relevant approvals .

This status is also assigned when the applicant requests in writing the process to be put on hold.

### Decision pending

This status is assigned when the CEO, based on an initial assessment, considers that the application raises such significant environmental, planning or other relevant issues it is likely to be refused.

In accordance with principles of natural justice the CEO provides an opportunity for the applicant to respond for a period of at least 30 days.

### Referred to the Environmental Protection Authority (EPA)

This status is assigned when DER/DMP have been notified by the EPA that a proposal has been referred and that it is constrained from making a decision that could implement the proposal or a related proposal under ss 41 and/or 51F of the EP Act.

**Table 3.3 Time frame data for DER applications/decisions**

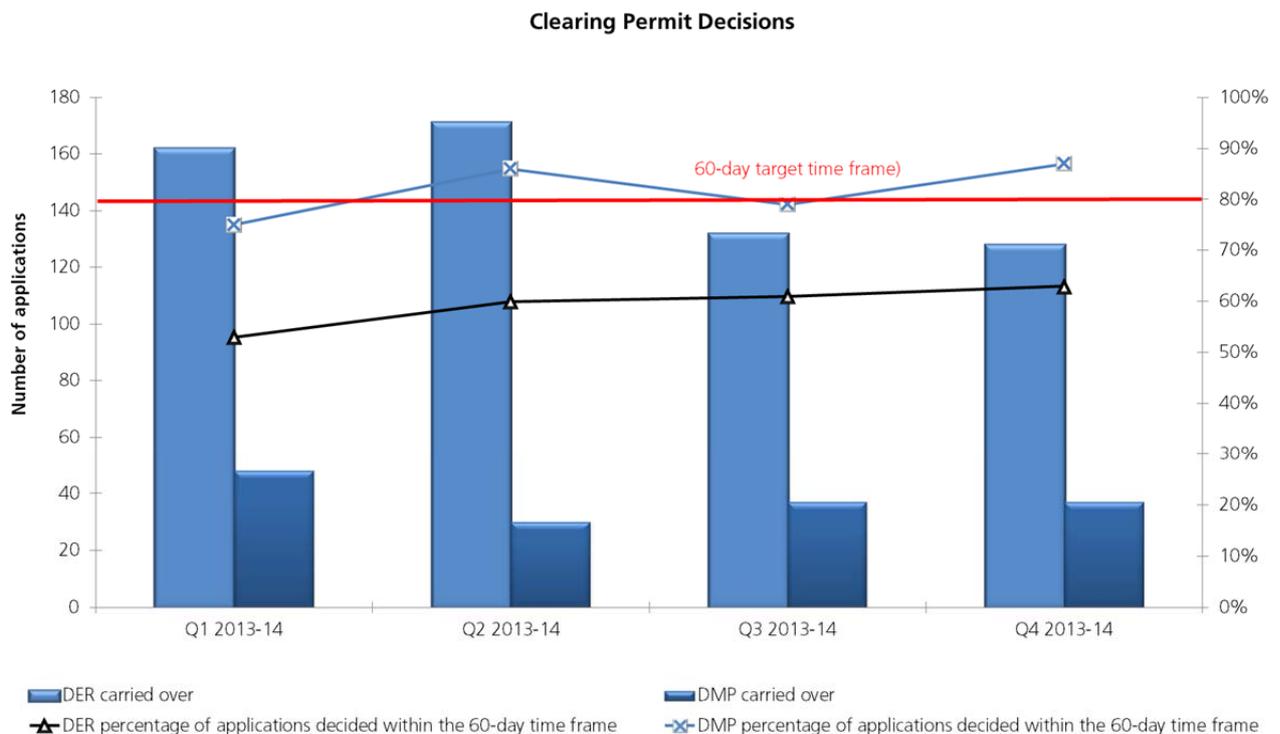
CATEGORY—DER	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
No. of applications carried over from previous periods	162	171	132	128*
No. of applications received	146	104	115	103
No. of decisions that were subject to 'stop the clock'	64	61	73	53
Average time in 'stop the clock' for decisions in days	149	111	126	131
Average time for decision in days (excluding time in 'stop the clock')	53	54	52	38
No. decisions on applications	138	140	117	107
No. of outstanding applications at end of quarter	170	135	130	124
Percentage of applications that were finalised within benchmark time frame				
60 days (80% of applications finalised)	53	60	61	63
90 days (100% of applications finalised)	96	97	94	94
>90 days	4	3	6	6

\*This figure is not the same as the outstanding applications at the end of the previous quarter due to data correction occurring for Q4 2013–14 period.

**Table 3.4 Time frame data for DMP applications/decisions**

CATEGORY—DMP	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
No. of applications carried over from previous periods	48	30	37	37
No. of applications received	48	44	47	67
No. of decisions that were subject to 'stop the clock'	33	26	25	41
Average time in 'stop the clock' for decisions in days	37	34	16	32
Average time for decision in days (excluding time in 'stop the clock')	57	48	39	54
No. decisions on applications	65	43	47	55
No. of outstanding applications at end of quarter	31	31	37	49
Percentage of applications that were finalised within benchmark time frame				
60 days (80% of applications finalised)	75	86	79	87
90 days (100% of applications finalised)	90	98	100	100
>90 days	10	2	0	0

**Figure 3.2 Number of decisions made compared to target time frames in the previous four quarters**

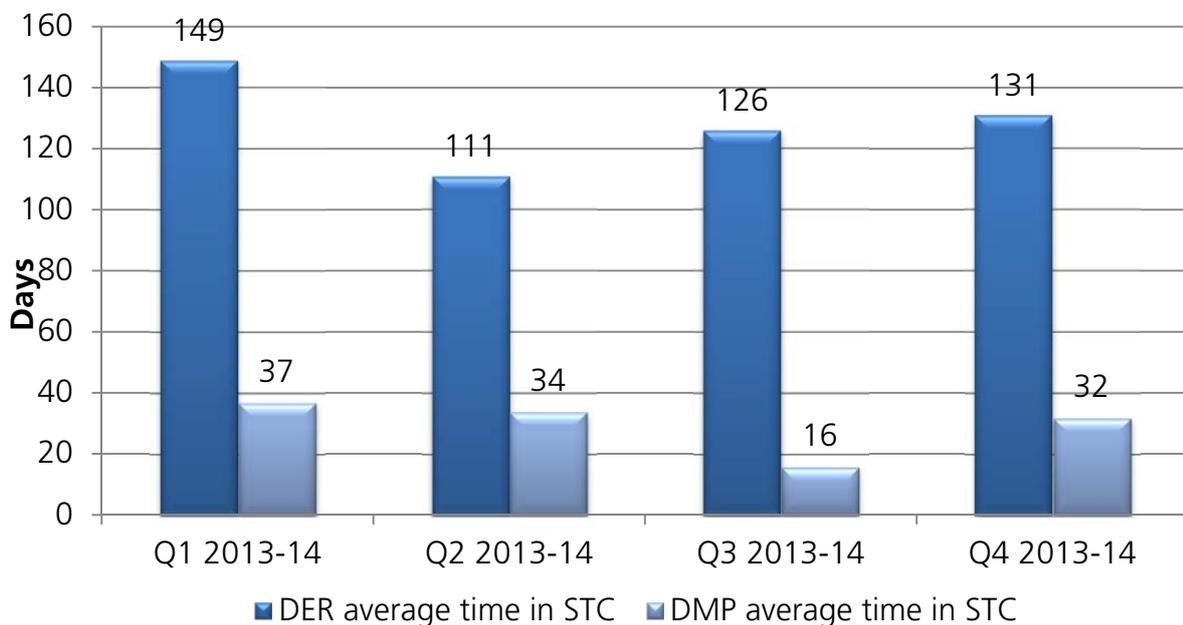


**Table 3.5 Decisions subject to 'stop the clock'**\*

'Stop the clock' decisions	DMP		DER		Overall	
	Number of decisions	Average days per decision	Number of decisions	Average days per decision	Number of decisions	Average days per decision
Total/average	41	32	53	131	94	88

\* The total/average values in Table 3.5 may not match the total/average values shown in Table 3.6 because a decision may be the subject of more than one reason for an incident of 'stop the clock'.

**Figure 3.3 Average time in 'stop the clock' in the previous four quarters**



**Table 3.6 Breakdown of reasons for 'stop the clock' by number of incidents, and average days per incident\***

'Stop the clock' reasons	DMP		DER		Overall	
	Number of decisions	Average days per decision	Number of decisions	Average days per decision	Number of decisions	Average days per decision
Waiting on applicant	41	32	39	87	80	59
Decision pending	0	0	16	206	16	206
Referred to EPA	0	0	4	70	4	70
Total/average	41	32	59	118	100	83

\* The total/average values in Table 3.6 may not match the total/average values shown in Table 3.5 because a decision may be the subject of more than one reason for an incident of 'stop the clock'.

## 4. Contaminated sites

### 4.1 Introduction

Under the *Contaminated Sites Act 2003* (the CS Act), DER classifies 'known or suspected contaminated sites' reported to it, in consultation with the Department of Health (DoH).

The CS Act commenced on 1 December 2006 and introduced mandatory reporting of 'known or suspected contaminated sites'. Owners and occupiers of such sites, any person who caused or contributed to the contamination, and contaminated sites auditors engaged to report on such sites have a duty to report known contaminated sites within 21 days, and suspected contaminated sites as soon as practicable.

As a transitional provision, the CS Act provided a six-month 'period of grace' from its commencement, during which penalties for not reporting within the required time frames did not apply. This 'period of grace' for reporting historical sites expired on 31 May 2007.

By 30 June 2014, DER had received 3461 reports of known or suspected contaminated sites (also referred to as 'Form 1s') since the CS Act commenced. Of the total number of reports, 58 per cent were received over the three-month period April to June 2007. Reporting of sites continues with an average of 13 reports being received each month.

After receiving a report of a 'known or suspected contaminated site' DER, in consultation with DoH, assigns one of seven possible classifications (set out in

Schedule 1 of the CS Act) to the site based on the risk the contamination poses to human health and the environment.

### 4.2 Performance

Thirty-one sites were reported in the fourth quarter of 2013–14 (see Table 4.1 and Figure 4.1).

By 30 June 2014, a total of 2783 sites had been classified (made up of 19,106 individual lots or land parcels) under the CS Act (see Figure 4.2).

A total of 79 sites were classified in Quarter 4 2013–14.

Under the CS Act, sites must be classified within 45 days of receiving the report, unless there are particular circumstances that make it necessary to extend the time.

The most common reason DER extends the classification time frame is because the proponent requests it and informs DER that investigation of the site is underway, but that the resulting technical report (which will inform the appropriate classification category) is not yet complete.

If DER decides to extend the classification time frame, DER must give written notice of its decision, within 45 days of receiving the report, to all parties who must be notified of the site classification (that is, owners and occupiers of the site, relevant public authorities such as the Western Australian Planning Commission and local government authority, the person who reported the site, each person who may be responsible for remediation, and any other person whom there is particular reason to notify).

Due to the very large peak in the number of sites reported over the period April to June 2007, the former Department of Environment and Conservation (DEC) was unable to classify all the 'peak period' sites within the statutory 45-day time frame, and it is likely to take a number of years to process this backlog.

DEC prioritised classification of the 'peak period' sites, based on a screening review of the information submitted. Priority was accorded to sites where the available information indicated there may be an immediate or serious risk to human health or the environment that was not being appropriately managed.

**Table 4.1 Form 1s processed by quarter**

	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
Carried over from previous quarter	9	18	23	9
New form 1s received	41	49	31	31
Processed within statutory 45 days	32	44	45	29
Open at end of quarter*	18	23	9	11
Exceeding statutory 45 days	0	0	0	0

\* Form 1s received in the last four weeks of quarter still within statutory 45 days, which will be processed in the next quarter.

### Mandatory auditor's reports

Mandatory auditor's reports (MARs) are required under the CS Act for some sites. For example, MARs may be required where a site is a source of contamination that has moved off-site to affect other properties, or if a site is subject to a regulatory notice, or investigation and remediation is conducted to comply with a planning or Ministerial condition.

Some MARs are reviewed only by DER (apart from routine consultation with DoH as part of the classification process). For other MARs, DER requires specialist technical advice from other agencies before processing of the MAR can be completed (for example, where asbestos or radiological contamination is present, or where a quantitative human health risk assessment was undertaken).

DER received 17 MARs in the fourth quarter of 2013–14 and eight MARs were processed (one MARs remains under review, four were awaiting information from the proponent and a further four were awaiting advice from other agencies). In addition, five MARs carried forward from the previous reporting period were processed, bringing the total number of MARs processed within this period to 13.

The average processing time for MARs reviewed by DER only was 17 days, within DER's 21-day target. The average processing time for all MARs completed during this reporting period was 31 days, exceeding DER's 21-day target (three weeks).

DER continues to explore opportunities with other agencies to improve processing times.

**Table 4.2 MAR review performance by quarter**

	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
MARs received	10	15	6	17
MAR reviews completed	10	11	9	13
MARs carried forward	5	9	6	10
Average processing time (days)	24	36	31	31
MARs processed by DER only	7	4	6	6
Average time for MARs processed by DER only (days)	18	15	26	17

**Figure 4.1 Number of sites reported and classified each period**

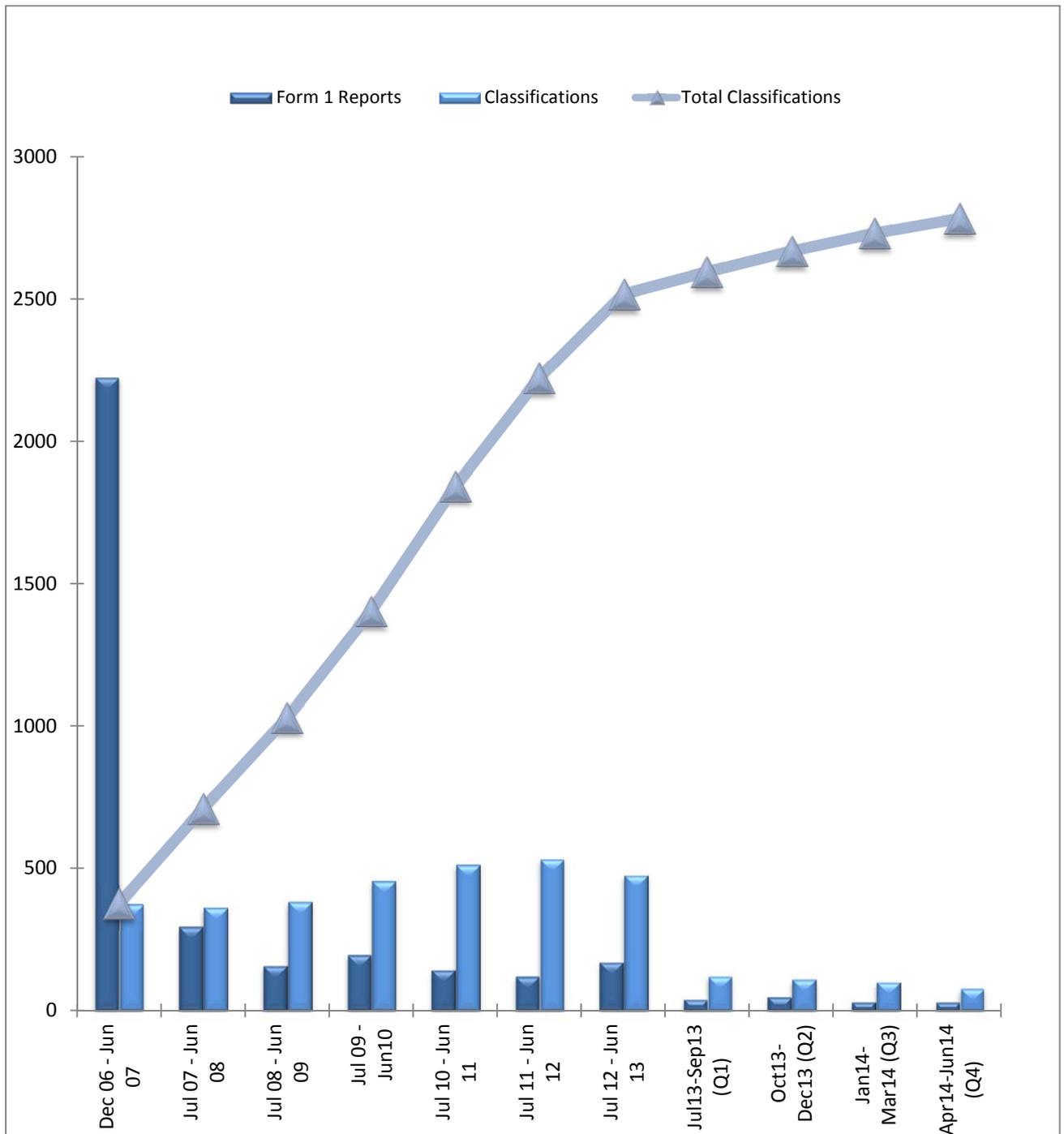
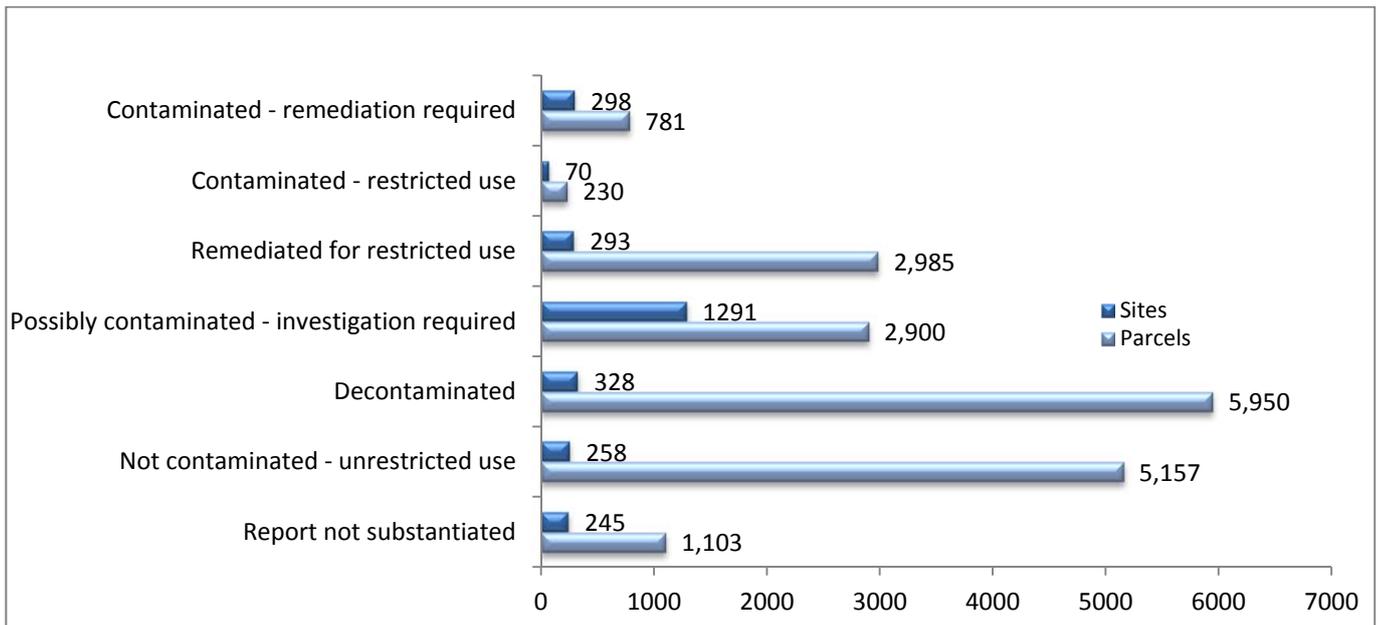


Figure 4.1 shows the number of sites reported and classified each financial year until June 2013, and quarterly since July 2013, as well as the steady increase in the total number of classified sites at the end of each period.

**Figure 4.2 Distribution at 30 June 2014 of classified sites and parcels across the seven classification categories.**



## 5. Environmental enforcement

### 5.1 Introduction

This section summarises the performance of DER in delivering its role of regulator enforcing Western Australia's major environmental legislation: the *Environmental Protection Act 1986*, *Contaminated Sites Act 2003*, and *Waste Avoidance and Resource Recovery Act 2007*.

The statistical data appearing in this section are obtained from DER's Incident and Complaint Management System (ICMS), a tool designed to record complaints and incidents and provide a case management framework through which investigations are conducted, and enforcement outcomes are decided.

An enforcement action is an activity undertaken by DER during the investigation process. Enforcement actions include enforcement sanctions, emails, further investigations, letters,

licence reviews, phone calls, prescribed actions, provision of advice, site inspections and site visits.

The information presented in this section is a summary prepared from more detailed reports. If required, more detailed information may be made available through DER's Environmental Enforcement Senior Analyst.

Note: The categorisation of complaints and incidents is under review. Categories and subcategories of matters will vary from previous reports. A complaint is a report made to DER by a member of the public of an environmental event. This includes events such as unreasonable emissions of dust, odour and noise, pollution, and illegal dumping of waste.

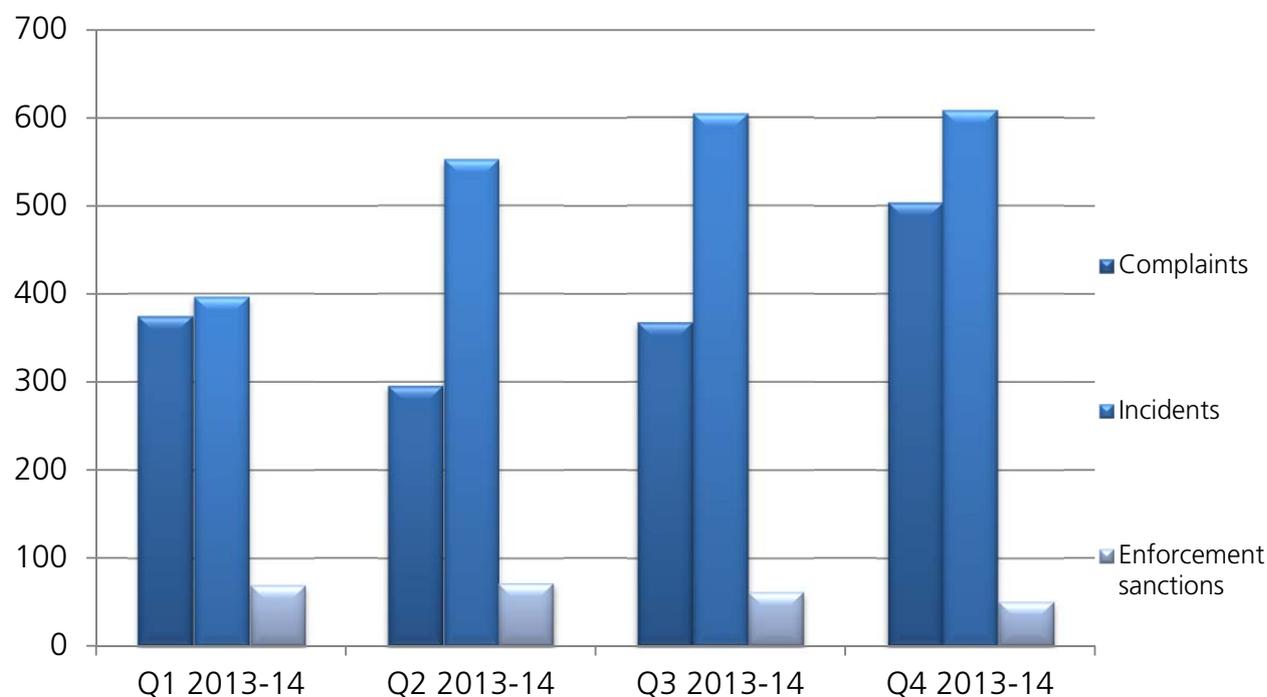
## 5.2 Performance

**Table 5.1 Environmental complaints | incidents by DER region\***

Region	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
Goldfields	5   57	3   55	9   102	8   70
Greater Swan	192   72	177   190	236   157	337   95
Indian Ocean Territories (IOT)	1   12	1   6	1   7	0   5
Midwest	10   21	8   40	4   30	7   16
North West	10   38	7   83	12   78	24   211
Perth	114   141	81   125	84   125	112   164
South Coast**	21   34	19   54	22   106	16   48
<b>Total</b>	<b>353   375</b>	<b>296   553</b>	<b>368   605</b>	<b>504   609</b>

\* DER Regional boundaries changed on 1 March 2014; figures associated with the former regional boundaries are incorporated in the new regional boundaries.

**Figure 5.1 Analysis—complaints, incidents and sanctions over previous four quarters**

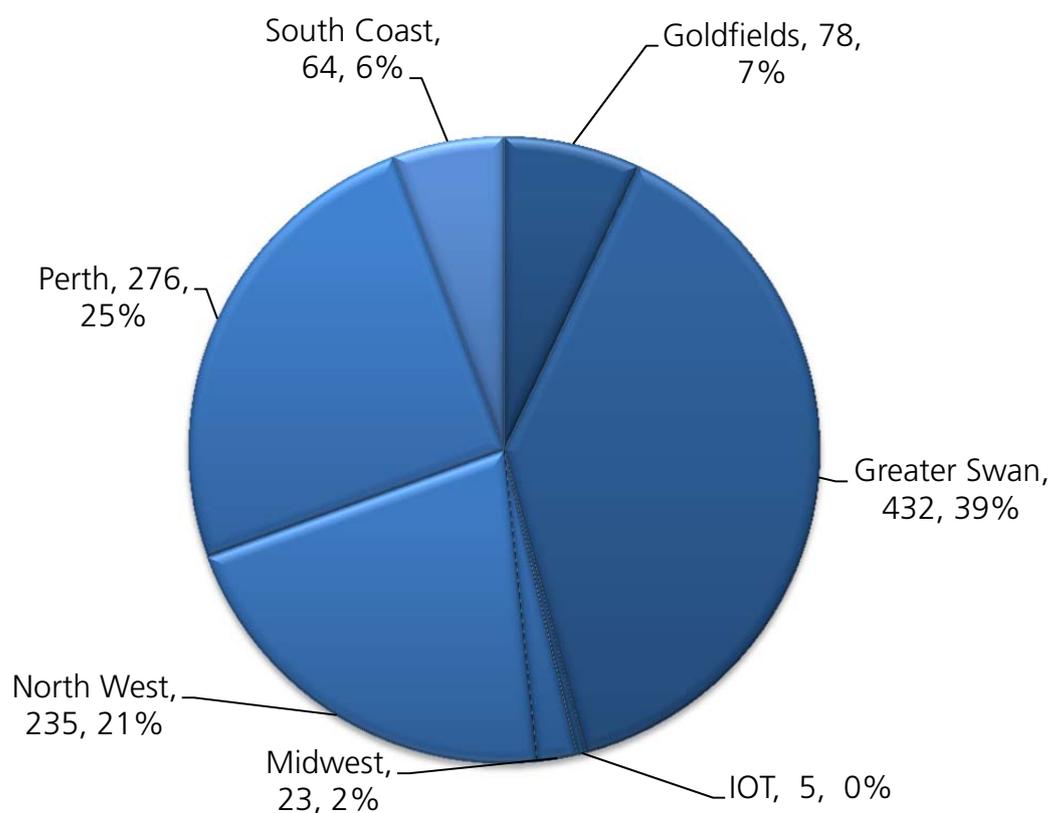


**Table 5.2 Environmental complaints/incidents reported by sub-category, Q4 2013–14**

Category	Complaints received	Enforcement actions undertaken
Clearing of native vegetation	44	182
Burning	2	
Cutting	39	
Draining	0	
Grazing	0	
Poisoning	2	
Unspecified	1	
<b>Compliance</b>	<b>385</b>	<b>489</b>
Clearing permit	0	
Industry licence	316	
Industry registration	15	
Proactive compliance	5	
Statutory notice	0	
Works approval	2	
Unspecified	47	
<b>Contaminated sites</b>	<b>0</b>	<b>0</b>
<b>Controlled waste</b>	<b>14</b>	<b>62</b>
Disposal site	2	
Unauthorised disposal	3	
Unauthorised transport	1	
Waste generator	3	
Unspecified	5	
<b>EP licence breach</b>	<b>82</b>	<b>178</b>
Condition Breach – Late Report	8	
Condition Breach – Licence Limit	10	
Condition Breach – Reporting Condition	10	
Condition Breach - other	46	
Unspecified	8	
<b>Emission</b>	<b>562</b>	<b>1574</b>
Air quality	5	
Dumping waste	21	
Dust	39	
Hazardous material	19	
Light	1	
Liquid waste	70	
Noise	62	
Odour	212	
Pesticide	1	
Smoke	18	
Solid waste	5	
Unauthorised discharge	52	
Unspecified	57	

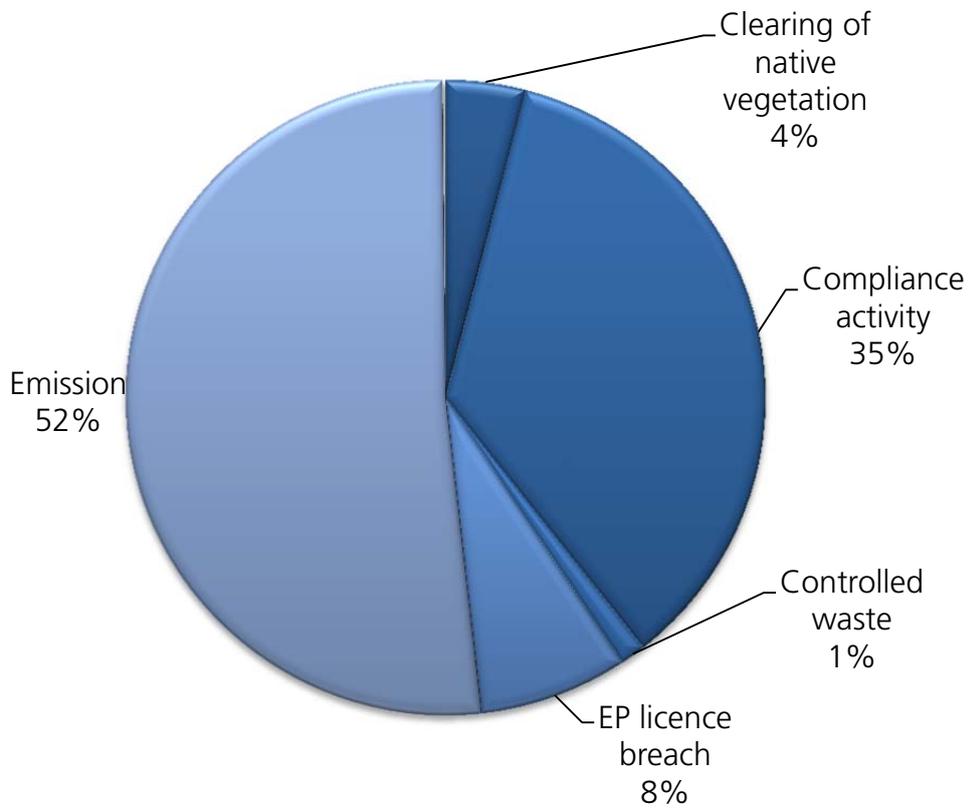
Category	Complaints received	Enforcement actions undertaken
Landfill levy	1	0
Threat/Aggression/Assault <sup>1</sup>	1	1
Risk rating: Moderate	1	
Unspecified	0	
Other	0	0
TOTAL	1089	2486

**Figure 5.2 Complaints by DER region, Q4 2013–14**



<sup>1</sup> Incidents where a DER employee is assaulted or subject to threatening or aggressive behaviour

**Figure 5.3 Complaints and incidents as percentages, Q4 2013–14**



**Table 5.3 Enforcement sanctions undertaken in the previous four quarters<sup>1</sup>**

Type of action	Q1 2013–14	Q2 2013–14	Q3 2013–14	Q4 2013–14
Environmental field notice (EFN) <sup>2</sup>	41	42	37	19
Environmental protection notice (EPN) <sup>3</sup>	1	1	0	0
Infringement notices <sup>4</sup>	5	5	4	0
Stop work order <sup>5</sup>	0	0	0	0
Letter of education <sup>6</sup>	14	12	8	10
Letter of warning <sup>7</sup>	10	12	11	25
Statutory direction/notice <sup>8</sup>	1	0	2	0
Modified penalty <sup>9</sup>	0	0	0	0
Prosecutions commenced <sup>10</sup>	3	4	3	0

<sup>1</sup> Quarterly breakdown reflects the sanctions undertaken by the end of each quarter, on matters received during the quarter.

<sup>2</sup> An environmental field notice is a non-statutory written notice of an offence. An EFN instructs the recipient to take immediate remedial actions.

<sup>3</sup> An environmental protection notice is a statutory notice issued pursuant to section 65 of the *Environmental Protection Act 1986*.

<sup>4</sup> An infringement notice is a modified penalty for an alleged offence requiring the payment of a fine or election to have the matter heard in court.

<sup>5</sup> A stop work order is a statutory order made by the Minister pursuant to section 69 of the *Environmental Protection Act 1986*.

<sup>6</sup> A letter of education is non-statutory advice to a person or business reminding them of their responsibilities under the *Environmental Protection Act 1986*.

<sup>7</sup> A letter of warning is a non-statutory notice to an offender that a legislative breach has occurred and been noted on record.

<sup>8</sup> A statutory direction/notice is a written direction requiring certain action be taken or ceased within a specified time; for example, a pollution prevention notice.

<sup>9</sup> A modified penalty is a statutory notice that an offence has occurred and that, in the opinion of DER, the offence has met the prescribed legislative requirements to minimise and remedy the environmental impact.

<sup>10</sup> A DER prosecution action commences when a complaint is made (or sworn) that an entity has committed an offence under the legislation.

**Table 5.4 Enforcement actions undertaken by corresponding financial year quarter**

Type of action	Number of actions undertaken by quarter <sup>1, 2</sup>			
	Q4 2010–11	Q4 2011–12	Q4 2012–13	Q4 2013–14
EFN	67	70	46	19
EPN	0	0	1	0
Further investigations	174	98	133	122
Infringement notices	4	4	2	0
Letter <sup>3</sup>	115	169	261	252
Letter of education	20	33	41	10
Letter of warning	34	36	35	25
Licence review/amendment <sup>4</sup>	5	9	4	2
Modified penalty brief	0	2	0	0
Prescribed action <sup>5</sup>	3	1	0	2
Prosecution	4	4	1	0
Provide advice	9	3	3	4
Site inspection	76	66	144	138
Site visit	163	148	150	110
Statutory direction/notice	2	1	1	3
Stop work order	0	0	0	0
<b>Prosecutions Q4 2013–14</b>				
Pending prosecutions				11
Current prosecutions before court				4

<sup>1</sup> Quarters 4 for 2010–11, 2012–13 and 2012–13 include actions/sanctions undertaken by the Swan River Trust (SRT). Following machinery of government changes and the establishment of DER on 1 July 2013, fourth quarter figures for 2013–14 do not include actions/sanctions undertaken by SRT.

<sup>2</sup> Email and phone call data are no longer reported.

<sup>3</sup> Any letter that is not a Letter of warning or Letter of education

<sup>4</sup> DER may amend or revoke an existing licence for the conservation, preservation, protection, enhancement and management of the environment.

<sup>5</sup> A prescribed action is any physical intervention undertaken by DER to remedy a breach of legislation or when undertaking remedial action. If this occurs, the occupier or polluter may be pursued for the cost of the clean-up. Such action will be taken only where authorised by legislation and in accordance with that legislation.

**Table 5.6 Native vegetation regulation activity, Q4 2013–14**

Activity	Number
Vegetation conservation notice (VCN) <sup>1</sup>	0 (42 Active)
Clearing applications	103
Clearing approvals	81
Letters of warning	7
Prosecutions	0

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<sup>1</sup> A vegetation conservation notice is a statutory notice given under s 70 of the EP Act when the CEO of DER suspects, on reasonable grounds, that unlawful clearing of native vegetation is likely to take place, is taking place, or has taken place on the land.

## 6. Contact details

### 6.1 Department of Environment Regulation

#### Physical address:

Level 4, 168 St Georges Terrace  
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#### Direct

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W: [www.der.wa.gov.au](http://www.der.wa.gov.au)

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#### Greater Swan Region

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##### Midwest Region

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PO Box 72  
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## 6.2 Quarterly reports

### Approvals summary

Senior Manager Legislation and National Policy

P: 6467 5103

E: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)

### Works approvals and licences

Senior Manager Industry Regulation

P: 6467 5233

E: [industry.regulation@der.wa.gov.au](mailto:industry.regulation@der.wa.gov.au)

### Environmental compliance

Senior Manager Environmental Compliance

P: 6467 5371

E: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)

### Native vegetation clearing permits

Senior Manager Clearing Regulation

P: 6467 5022

E: [nvp@der.wa.gov.au](mailto:nvp@der.wa.gov.au)

### Contaminated sites

Senior Manager Contaminated Sites

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