



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

REPORT

# Regulatory Performance Report Quarter 2 2015–16

*October 1 2015–December 31 2015*

**Version: Draft**

ISSN 2205-0590

DER2016/000460

### **Produced and published by**

Department of Environment Regulation  
168 St Georges Terrace, Perth, Western Australia

March 2016

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 and the Department of Parks and Wildlife. Any information in this report for the period up to 30 June 2013 relates to activities under the former DEC.

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### **Accessibility**

This document is available in alternative formats and languages on request.

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## Introduction

The Department of Environment Regulation (DER) is a regulatory agency responsible for administering environment legislation in Western Australia.

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.

This quarterly report outlines DER's performance in two principal functioning areas, namely Licensing and Approvals (sections 1–3) and Compliance and Enforcement (sections 4–5), and provides information on:

- works approvals and licences—number and timeliness of decisions made on works approvals and licences for major resources and other projects;
- native vegetation clearing permits—number and timeliness of decisions on clearing permit applications made by DER and the Department of Mines and Petroleum (DMP) (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;
- environmental compliance—environmental regulation proactive compliance inspection program; and
- environmental enforcement—statistical and supporting information outlining DER's enforcement activity and outcomes.

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 receives reports of known or suspected contaminated sites, assesses and classifies contaminated sites, maintains public information on contaminated sites, and orders and monitors their remediation.

Under the WARR Act, metropolitan landfill operators and regional landfill operators receiving metropolitan waste 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 environmental 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 regulation.

## 1. Works Approvals and Licences

DER assesses and decides new works approval and licence applications, as well as applications for amendments, renewals, transfers and surrender/revocation of instruments for prescribed premises, as authorised under Part V Division 3 of the EP Act.

Commencing Q1 2015–16, DER is reporting on its performance on deciding applications to amend works approvals and licenses and renewals, transfers, surrender and revocation of works approvals and licenses.

DER refocused its industry regulation business improvement program in 2015 to deliver a range of significant reforms. The reform program aligns with DER's [Guidance Statement: Regulatory Principles](#) and the recently published [Guidance Statement: Setting Conditions](#).

DER is developing a comprehensive risk-based approach to its regulatory functions under Part V Division 3 of the EP Act. [Guidance Statement: Regulatory Principles](#) will be supported by a series of detailed documents and process improvements for more efficient, effective, transparent, consistent and accountable environmental regulation in WA.

A schedule for these reform deliverables is available on DER's website at [www.der.wa.gov.au/our-work/consultation](http://www.der.wa.gov.au/our-work/consultation).

### 1.1 Major Resources Projects

DER and its predecessor agencies have tracked and reported performance in deciding major resources projects works approval and licence applications 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 resources projects 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 resources projects works approval and licence applications are summarised in Tables 1.1 and 1.2.

#### Works Approvals

During Q1 2015–16, four new works approval applications for Major Resources Projects were received, compared with 19, 18 and 20 in the preceding quarters. The reduction in applications may be a result of publication of DER's [Guidance Statement: Licensing and Works Approvals Process](#) in September 2015, which encourages existing licence holders to seek approval for changes to their prescribed premises through a licence amendment application rather than a works approval application. Twenty-one works approvals were decided, the same as the previous quarter.

DER decided 76 per cent of new works approval applications for major resources projects in the second quarter of 2015–16 within the target time frame, compared with 71 per cent achieved in the previous quarter.

A targeted risk-based program was implemented in Q4 2014–15 to reduce the number of open applications, particularly those that are protracted, and to appropriately manage the timely assessment of all applications in future. Four of the 21 works approvals decided in the quarter were protracted assessments.

The average processing time for works approval applications during Q2 2015–16 was 73 days, an increase from 50 days in the previous quarter. The increase in average processing time is due to completion of the four protracted applications. There was a decrease in the number of open applications from 37 to 19.

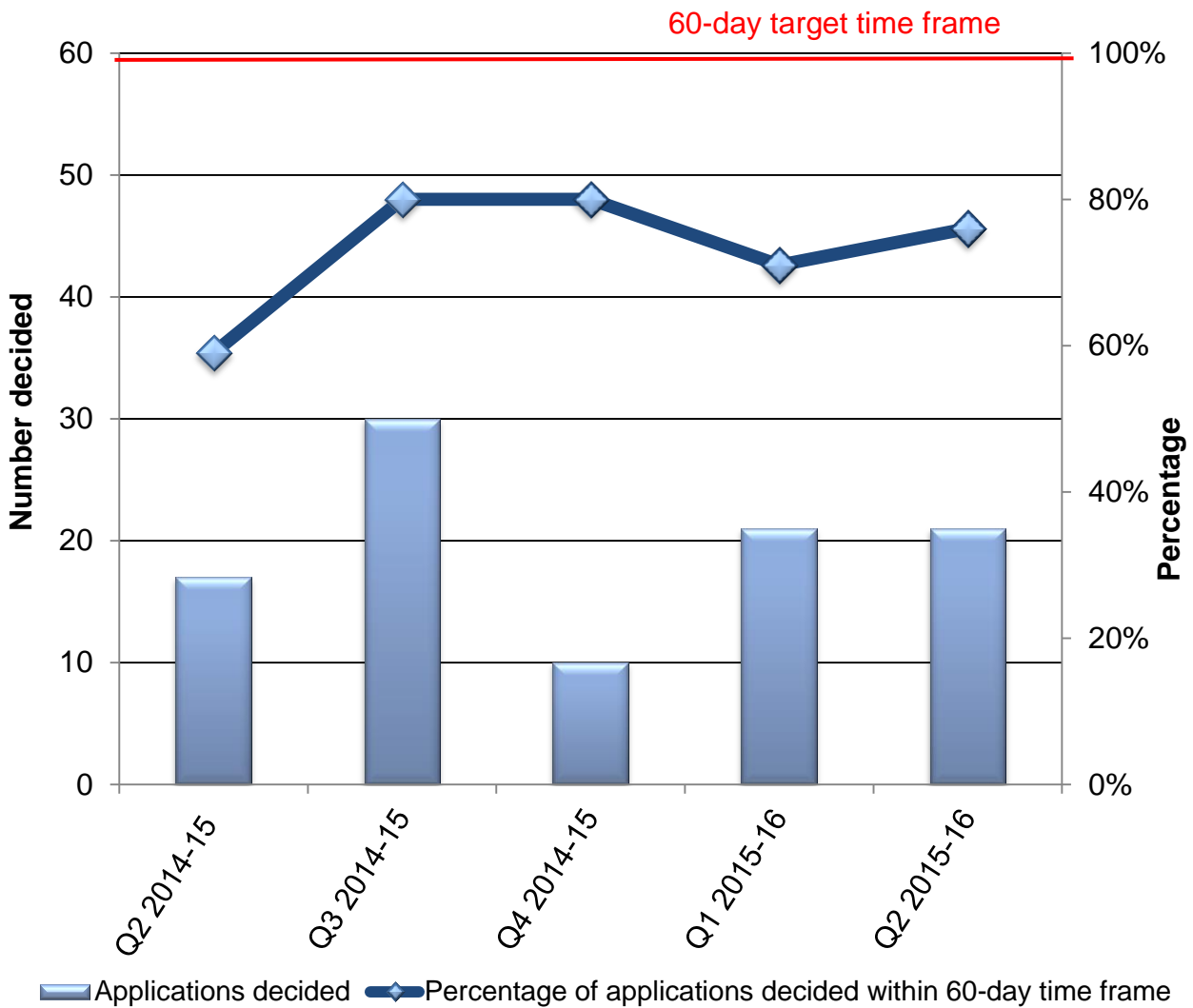
**Table 1.1 Major resources projects works approval applications**

	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16	Q2 2015-16
<b>Works approval applications</b>					
No. of applications carried over from previous periods	27	36	24	42 <sup>3</sup>	37
No. of applications received	26	20	18	19	4
No. of applications granted	17	30	10	21	21
No. of applications refused	0	0	0	0	0
No. of applications withdrawn <sup>1</sup>	0	2	2	0	1
No. of applications declined <sup>2</sup>	n/a	n/a	n/a	3	0
No. of open applications as of end of quarter	36	24	30	37	19
Percentage of applications that were finalised within time frame of 60 business days (target = 100% of applications finalised)	59%	80%	80%	71%	76%
Average time for decision (business days)	57	49	53	50	73

NOTES

- 1 Withdrawn means the applicant withdrew the application.
- 2 Declined means the application did not meet the CEO's requirements to accept. The figure was reported on for the first time in Q1 2015–16.
- 3 This figure has been updated to include all received applications that have been carried over from the previous quarter. Previously this figure only included those applications accepted for assessment.

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



**Licences**

Five new licence applications for major resources Projects were received in Q2 2015–16, compared with seven in the previous quarter. Four licences were determined, compared with five licences in the previous quarter.

DER decided two of the four new licence applications for major resources Projects in Q2 2015–16, being 50 per cent within the target time frame. This is a decline on the preceding quarter, when 100 per cent was achieved. The average decision time for licence applications increased from Q1 2015–16, from 44 to 85 days. One of the four licence determinations was a protracted assessment.

Figures 1.1 and 1.2 provide a quarterly summary since Q2 2014–15 for major resources projects approvals decided by DER, the average time taken to decide these applications, and DER’s performance in meeting the time frame.

**Table 1.2 Major resources projects licence applications**

	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16	Q2 2015–16
<b>Licence applications</b>					
No. of applications carried over from previous periods	14	10	11	14 <sup>3</sup>	15 <sup>4</sup>
No. of applications received	3	4	4	7	5
No. of applications granted	5	2	5	5	4
No. of applications refused	0	0	0	0	0
No. of applications withdrawn <sup>1</sup>	2	1	0	2	0
No. of applications declined <sup>2</sup>	n/a	n/a	n/a	0	0
No. of open applications as of end of quarter	10	11	10	14	16
Percentage of applications that were finalised within time frame of 60 business days (target = 100% of applications finalised)	100%	100%	40%	100%	50%
Average time for decision (business days)	43	43	58	44	85

## NOTES

- 1 Withdrawn means the applicant withdrew the application.
- 2 Declined means the application did not meet the CEO's requirements to accept. The figure was reported on for the first time in Q1 2015–16.
- 3 This figure has been updated to include all received applications that have been carried over from the previous quarter. Previously this figure only included those applications accepted for assessment.
- 4 One open licence application was re-categorised a Major Resource Project (previously listed as an "Other project" application).



Figure 1.2 Summary of major resources projects licence applications



## 1.2 Other Projects

For non-major resources projects (other projects) approvals, DER has set a target to decide 80 per cent of works approval and licence applications within a 60-working-day time frame. The quarterly figures for other projects works approval and licence applications are summarised in Tables 1.3 and 1.4.

### Works Approvals

Sixteen other project works approval applications were decided by DER in Q2 2015–16, a decrease from the previous quarter where 19 applications were decided. The percentage of works approvals decided within the target time frame was 63 per cent, compared with 31 per cent in the previous quarter.

The average decision time for other projects works approvals during this quarter was 62 days, compared to 97 days in the previous quarter.

As outlined in 1.1 (major resources projects), a targeted risk-based program was implemented in Q4 2014–15 to reduce the number of open applications and management to ensure the timely assessment of all applications. Two works approval applications determined in Q2 2015–16 were protracted applications.

**Table 1.3 Other projects works approval applications**

	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16	Q2 2015–16
<b>Works approval applications</b>					
No. of applications carried over from previous periods	43	36	34	53*	54
No. of applications received	14	18	16	35	30
No. of applications granted	17	18	13	19	16
No. of applications refused	0	0	0	0	0
No. of applications withdrawn <sup>1</sup>	4	2	2	7	5
No. of applications declined <sup>2</sup>	n/a	n/a	n/a	8	7
No. of open applications as of end of quarter	36	34	35	54	56
Percentage of applications that were finalised within time frame of 60 business days (target = 80% of applications finalised)	59%	72%	69%	31%	63%
Average time for decision (business days)	64	48	71	97	62

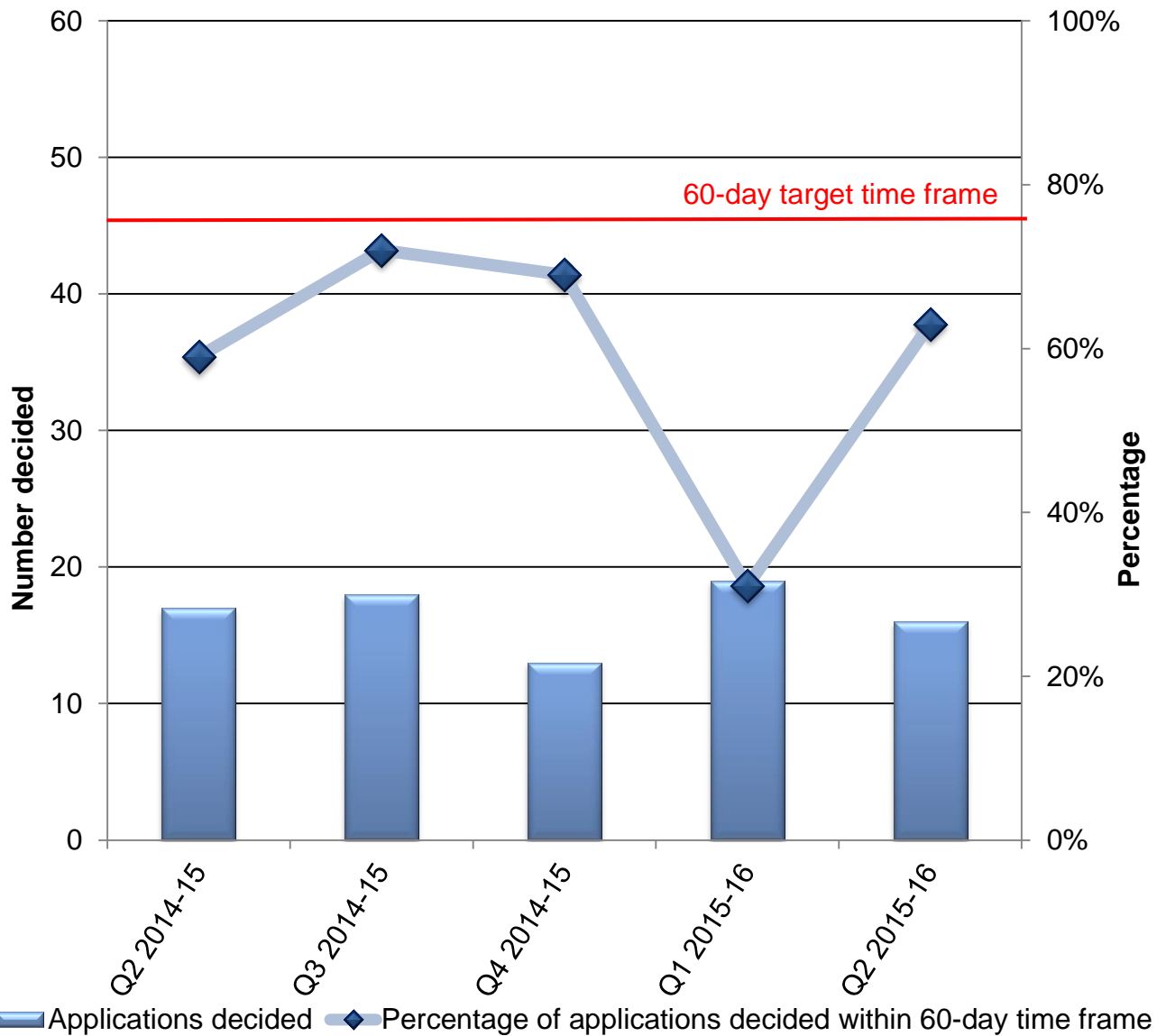
#### NOTES

1 Withdrawn means the applicant withdrew the application

2 Declined means the application did not meet the CEO's requirements to accept. The figure was reported on for the first time in Q1 2015–16.

\* This figure has been updated to include all received applications that have been carried over from the previous quarter. Previously this figure only included those applications accepted for assessment.

**Figure 1.3 Summary of other projects works approvals**



**Licences**

Fourteen other projects licences were decided by DER this quarter, including two protracted applications. Seventy-nine per cent of other projects licence applications were decided within the target time frame in Q2 2015–16. This is an increase of eight per cent over the previous quarter.

The average time to decide other projects licence applications increased during this quarter to 66 days, compared to 41 days in the previous quarter. There was a decrease in the number of open applications from 34 to 28.

DER notes that it must continually monitor its performance and maintain its targeted risk-based program to ensure it reduces the number of open applications and delivers timely assessment of all applications.

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

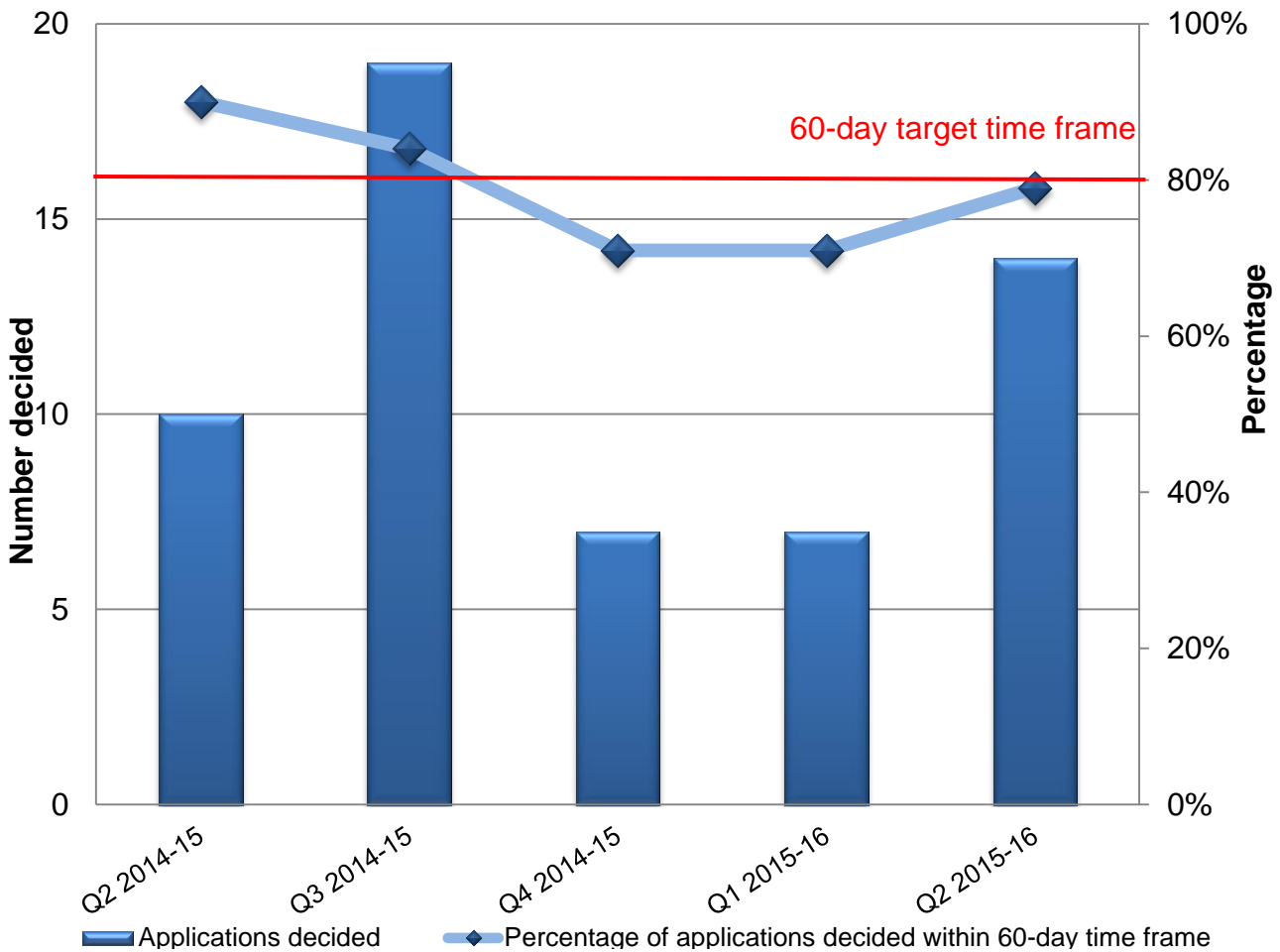
**Table 1.4 Other projects licence applications**

	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16	Q2 2015–16
<b>Licence applications</b>					
No. of applications carried over from previous periods	20	32	20	28 <sup>3</sup>	33 <sup>4</sup>
No. of applications received	22	9	7	17	14
No. of applications granted	10	19	7	7	14
No. of applications refused	0	0	0	0	0
No. of applications withdrawn <sup>1</sup>	0	2	1	3	5
No. of applications declined <sup>2</sup>	n/a	n/a	n/a	1	0
No. of open applications as of end of quarter	32	20	19	34	28
Percentage of applications that were finalised within time frame of 60 business days (target = 80% of applications finalised)	90%	84%	71%	71%	79%
Average time for decision (business days)	38	49	37	41	66

NOTES

- 1 Withdrawn means the applicant withdrew the application
- 2 Declined means the application did not meet the CEO's requirements to accept. The figure was reported on for the first time in Q1 2015–16.
- 3 This figure has been updated to include all received applications that have been carried over from the previous quarter. Previously this figure only included those applications accepted for assessment.
- 4 One open licence application was re-categorised a Major Resource Project.

**Figure 1.4 Summary of other projects licence applications**



### 1.3 Amendments

Performance reporting on determining applications to amend works approvals and licences commenced in Q1 2015–16 when DER implemented a target time frame to determine these applications.

Consistent with DER’s [Guidance Statement: Regulatory Principles](#), DER set an initial target to decide 100 per cent of all applications to amend works approval and license applications within 40 working days from Q1 2015–16. This will assist in DER delivering better customer service, with greater transparency and certainty for industry in the management of applications for amendment.

DER intends to review the target time frames during Q4 2015–16 to determine the appropriateness of the time frames, noting the variability of the types of amendment applications received.

There were 39 works approval amendment applications received during Q2 2015–16 with 15 applications decided. Forty-three per cent of these applications were decided within the target time frame. The average decision time for works approval amendment applications was 59 days, a decrease from 62 days in Q1 2015–16.

DER received 172 licence amendment applications in the Q2 2015–16 period and 91 were decided. DER decided 59 per cent of licence amendment applications within the target time frame in Q2 2015–16. The average time to decide licence amendment applications was 60 days, a decrease from the previous quarter of 130 days. The quarterly figures for works approval and licence amendment applications are summarised in Table 1.5.

DER is implementing a targeted program to reduce the number of protracted amendment applications and ensure appropriate management to deliver more timely decisions in the future.

**Table 1.5: Summary of amendment applications**

	Q1 2015–16	Q2 2015–16
<b>Works approval amendment applications<sup>1</sup></b>		
No. of applications carried over from previous periods	10	42 <sup>1</sup>
No. of applications received	8	39
No. of applications determined	10	15
No. of open applications as of end of quarter	8 <sup>1</sup>	66 <sup>2</sup>
Percentage of applications that were finalised within time frame of 40 business days (target = 100% of applications finalised)	60%	43%
Average time for decision (business days)	62	59
<b>Licence amendment applications<sup>1</sup></b>		
No. of applications carried over from previous periods	114	242 <sup>1</sup>
No. of applications received	68 <sup>2</sup>	172
No. of applications determined	38	91
No. of open applications as of end of quarter	144 <sup>1</sup>	323 <sup>2</sup>
Percentage of applications that were finalised within time frame of 40 business days (target = 100% of applications finalised)	29	59%
Average time for decision (business days)	130	60

NOTES

- 1 Following further review of open amendment applications, the number carried forward from Q1 to Q2 has been revised upwards.
- 2 Data cleansing is still in progress and the number of open applications may be further revised.

## 1.4 Licence Renewals

Performance reporting on applications for licence renewals commenced in Q1 2015–16. DER has set a target time frame of 100 per cent of decisions within 60 working days. The quarterly figures for licence renewal applications are summarised in Tables 1.6.

There were 23 licence renewal applications received during Q2 2015–16 and 54 applications were decided. Eighty-seven per cent of licence renewal applications were decided within the target time frame. The average time to make a decision decreased from 46 to 42 days.

**Table 1.6: Summary of licence renewals**

	Q1 2015–16	Q2 2015–16
<b>Licence renewal applications<sup>1</sup></b>		
No. of applications carried over from previous periods	26	56
No. of applications received	65	23
No. of applications granted	39	53
No. of applications refused	1 <sup>1</sup>	1
No. of open applications as of end of quarter	55 <sup>1</sup>	88 <sup>2</sup>
Percentage of applications that were finalised within time frame of 60 business days (target = 100% of applications finalised)	94%	87% <sup>3</sup>
Average time for decision (business days)	46	42 <sup>3</sup>

NOTES

1. Data correction.
2. This figure is a calculated figure as our business systems does not take into account those renewals that have been amended to extend. The reported number of open licence renewals from our business systems is 88.
3. Based on 40 of the 54 applications determined for which all required data was available.

## 1.5 Transfers and Revoke/Surrender

DER implemented target time frames for applications to transfer and revoke/surrender works approvals and licences during Q1 2015–16. The target time frame to determine all transfer and revoke/surrender applications is 100 per cent within 40 working days

The quarterly figures for transfer and revoke/surrender applications are summarised in Table 1.7.

There were four licence transfer applications determined and one licence revocation following an application to surrender the licence during Q2 2015–16. No applications to transfer, revoke or surrender works approvals were received or determined.

**Table 1.7: Summary of transfer and revoke/surrender applications**

	Q1 2015–16	Q2 2015–16
<b>Surrender/revoke/transfer works approval applications<sup>1</sup></b>		
No. of transfer applications determined	0	0
No. of surrender/revocation applications determined	0	0
<b>Surrender/revoke/transfer licence applications<sup>1</sup></b>		
No. of transfer applications determined	4	4
No. of surrender/revocation applications determined	4	1

1. Performance on deciding applications to amend works approvals and licences has historically not been tracked and therefore not reported.

## 2. Native Vegetation Clearing Permits

### 2.1 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 has delegated powers relating to clearing applications to the Department of Mines and Petroleum (DMP) for the following:

- clearing carried out 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
- clearing carried out under a government agreement administered by the Department of State Development.

DER's clearing permit system database records the details of 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 relates to DER only.

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

### Targets and Time Frames

Targets are 80 per cent of applications to be decided within 60 calendar days, with 100 per cent of applications to be decided within 90 calendar days.

The time frame commences from the date an application is received and ends on the date 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 'Clearing Permits' section of this report.

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

### 2.2 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 following three financial years, with 689 applications received during 2009–10, 758 applications in 2010–11 and 833 applications in 2011–12.

In 2012–13 the number of applications received decreased to 752 applications, with a further decrease in 2013–14 to 674 applications, and 642 applications in 2014–15.

DER received 95 clearing permit applications in Q2 2015–16.



There were 180 open applications at the end of the second quarter, which is more than the 169 open applications at the end of the previous quarter, and more than the 145 open applications at the same time last year.

During Q2 2015–16, DER made 102 decisions, which is more than the previous quarter's 97 decisions and fewer than the 126 decisions made at the same time last year.

The average time to make a decision was 74 days, which is more than the previous quarter's average of 58 days and the 52-day average for the same time last year.

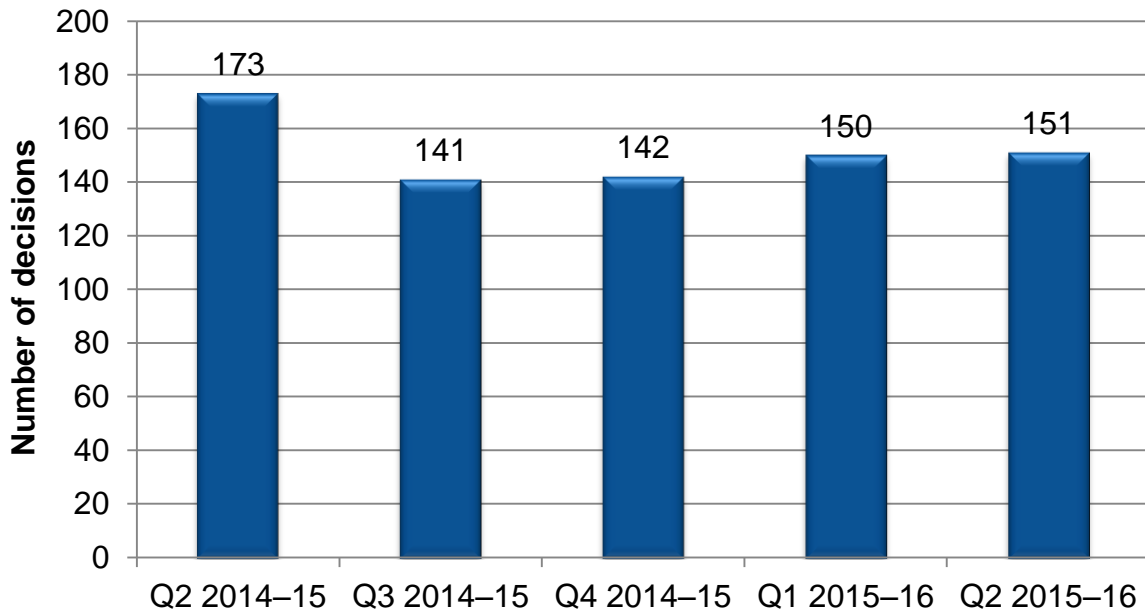
Of the 102 decisions made on applications in Q2 2015–16, 85 clearing permits were granted, 14 applications were withdrawn and three applications for a clearing permit were refused.

The 95 applications received this quarter were fewer than the 129 applications received in the previous quarter and the 130 applications received the same time last year. There was an increase in the number of decisions made (102 compared to 97 in the first quarter), leading to an overall decrease in the number of outstanding applications to be finalised (173 compared to 180 in the previous quarter).

While there has been a decrease in outstanding applications, the Department has not met target time frames. During Q2 2015–16, 29 per cent of applications were determined within 60 days, 76 per cent of applications determined within 90 days and 24 per cent of applications determined after 90 days.

It is acknowledged that significant improvement to performance is required to address this trend. DER's program to address the backlog of applications has been refocused to ensure the backlog of protracted applications are resolved by Q4 2015–16 and time frames are continually monitored to ensure improvement. Additional resources have been reallocated within the Department to address the clearing permit timeframes.

**Figure 2.1 Number of decisions made by DER and DMP compared to the previous**



**Table 2.1 Number of decisions made in Quarter 2 by DER and DMP by purpose**

Purpose	Number of decisions made in Q2 2015-16				
	Less than or equal to 60 days	61 to 90 days	91 to 120 days	Greater than 120 days	Total
State development	44	1	0	0	45
Local government	9	23	9	0	41
Utilities	5	2	0	0	7
Agriculture/horticulture/forestry	2	6	6	1	15
Basic raw materials	3	5	2	0	10
Other development	14	13	5	1	33
<b>Total</b>	<b>77</b>	<b>50</b>	<b>22</b>	<b>2</b>	<b>151</b>

**Table 2.2 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 Power, Main Roads Western Australia, Verve Energy, Telstra, Alinta Energy, Westnet Rail and the Public Transport Authority. Purposes include 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, rock 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.

### 2.3 Clearing Permits

Tables 2.3 and 2.4 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 show 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:

#### ‘Stop the Clock’—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. Further information includes where the CEO advises the applicant that a 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 that the process be put on hold.

### ‘Stop the Clock’—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 that 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.

### ‘Stop the Clock’—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 DER or DMP 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 2.3 Time frame data for DER applications/decisions**

Category—DER	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16	Q2 2015–16
No. of applications carried over from previous periods	144	148	153	169	180*
No. of applications received	130	98	101	129	95
No. of decisions that were subject to ‘stop the clock’	62	38	32	60	64
Average time in ‘stop the clock’ for decisions in days	70	107	59	67	67
Average time for decisions in days (excluding time in ‘stop the clock’)	52	54	57	58	74
No. of decisions on applications	126	93	85	97	102
No. of outstanding applications at end of quarter	148	153	169	201	173
Percentage of applications that were finalised within time frames					
60 days (target = 80% of applications finalised)	62	59	53	57	29
90 days (target = 100% of all applications finalised)	96	86	85	86	76
Greater than 90 days	4	14	15	14	24

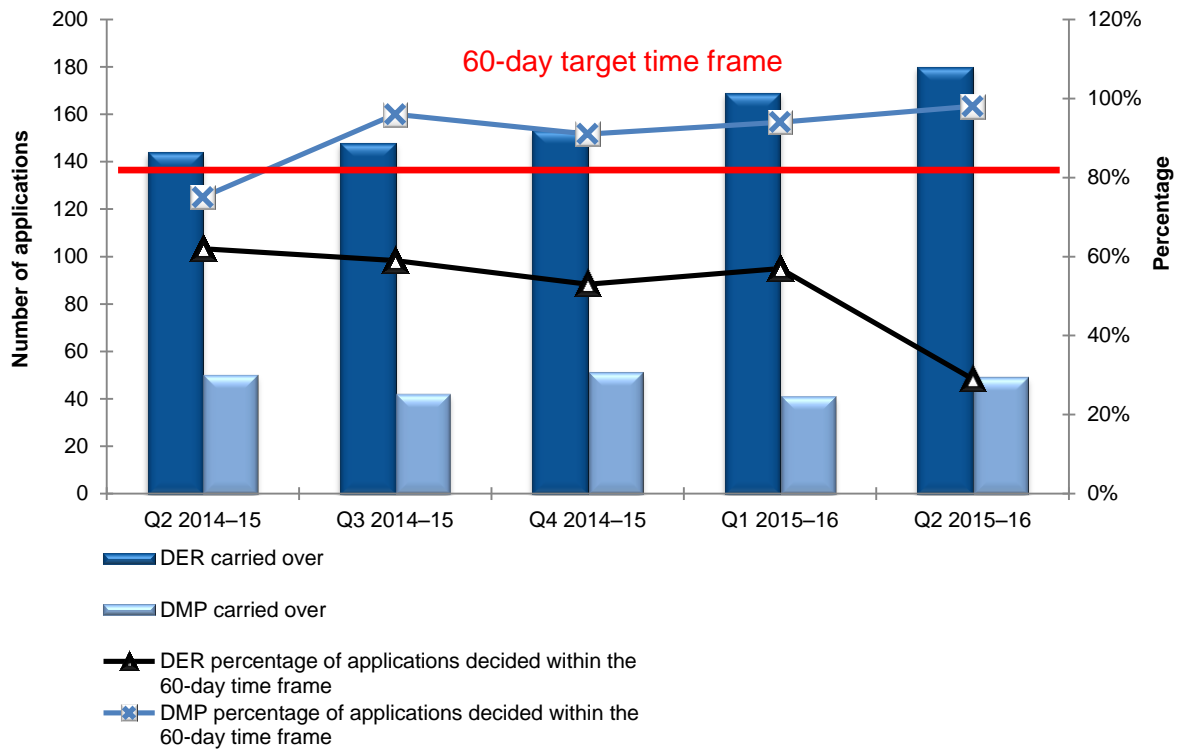
\* Improved automated reporting from the Department’s clearing permit system identified an error in the number of outstanding applications open at the end of Q1 2015-16. This has been corrected for Q2.

**Table 2.4 Time frame data for DMP applications/decisions**

Category—DMP	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16	Q2 2015–16
No. of applications carried over from previous periods	50	42	51	41	49*
No. of applications received	39	57	47	59	46
No. of decisions that were subject to 'stop the clock'	30	21	30	22	15
Average time in 'stop the clock' for decisions in days	44	67	14	8	19
Average time for decisions in days (excluding time in 'stop the clock')	69	22	50	48	43
No. of decisions on applications	47	48	57	53	49
No. of outstanding applications at end of quarter	42	51	41	47	46
Percentage of applications that were finalised within time frames					
60 days (target = 80% of applications finalised)	75	96	91	94	98
90 days (target = 100% of all applications finalised)	96	100	96	98	100
Greater than 90 days	4	0	4	2	0

\* Improved automated reporting from the Department's clearing permit system identified an error in the number of outstanding applications open at the end of Q1 2015-16. This has been corrected for Q2.

**Figure 2.2 Number of decisions made compared to target time frames in the previous four quarters**

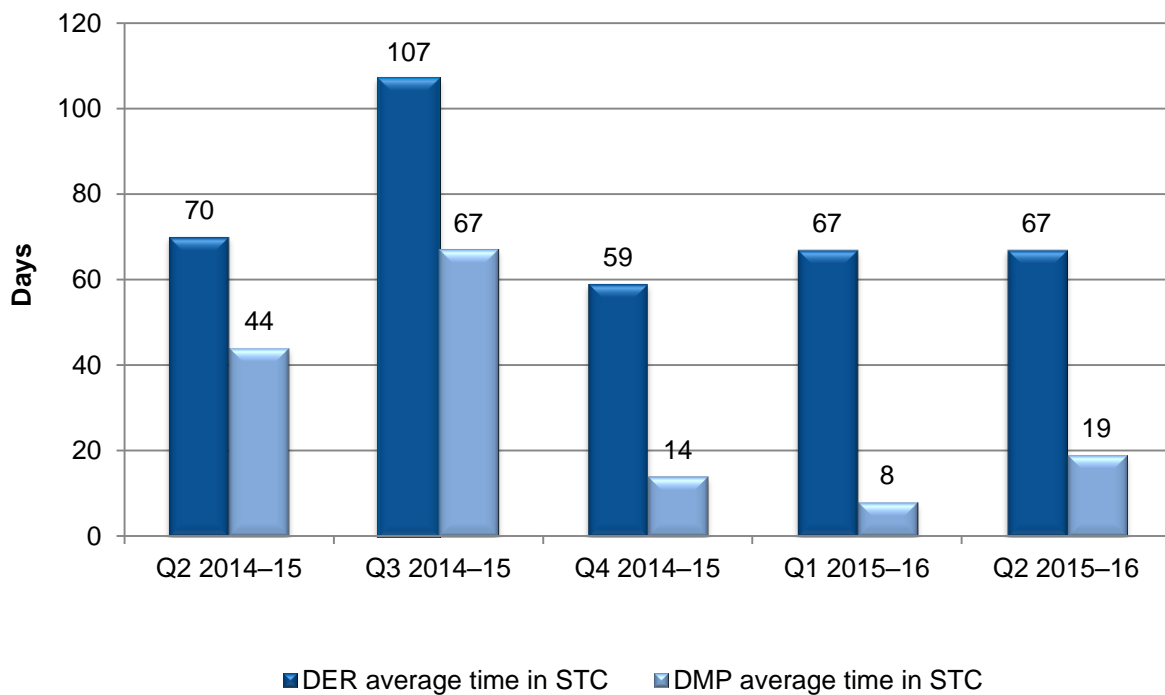


**Table 2.5 Decisions subject to ‘stop the clock’\***

‘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	15	19	64	99	79	84

\*The total/average values in Table 2.5 may not match the total/average values shown in Tables 2.3 and 2.4 because a decision may be the subject of more than one reason for an incident of ‘stop the clock’.

**Figure 2.3 Average time in 'stop the clock' compared to the previous four quarters**



## 3. Contaminated Sites

### 3.1 Overview

Under 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.

By 31 December 2015, DER had received 3,698 reports of known or suspected contaminated sites (also referred to as Form 1s). Of the total number of reports, 54 per cent were received over the three-month period from April to June 2007.

Reporting of sites continues with an average of 13 reports 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 that the contamination poses to human health and the environment.

### 3.2 Site Reporting and Classification

Forty-eight sites were reported in Q2 2015–16 (see Table 3.1 and Figure 3.1).

By 31 December 2015, a total of 3,162 sites had been classified, (made up of 21,332 individual lots or land parcels), under the CS Act (see Figure 3.2).

A total of 105 sites were classified in Q2 2015–16.

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 a 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 given 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 3.1 Form 1s processed by quarter**

	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16	Q2 2015–16
Carried over from previous quarter	14	13	19	6	8
New form 1s received	33	43	25	38	48
Processed within statutory 45 days	33	36	38	35	37
Open at end of quarter*	13	19	6	8	19
Exceeding statutory 45 days	1	1	0	1	0

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

**Figure 3.1 Number of sites reported and classified each period**

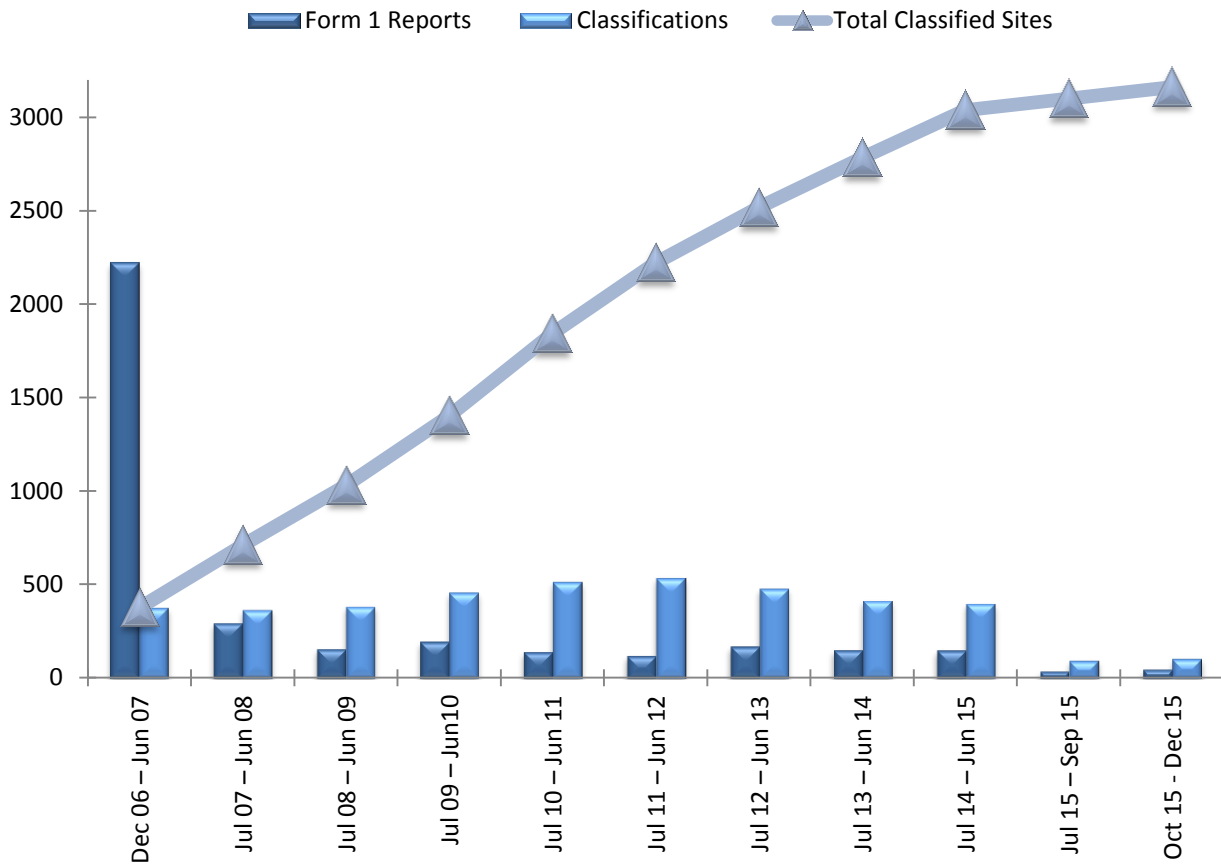
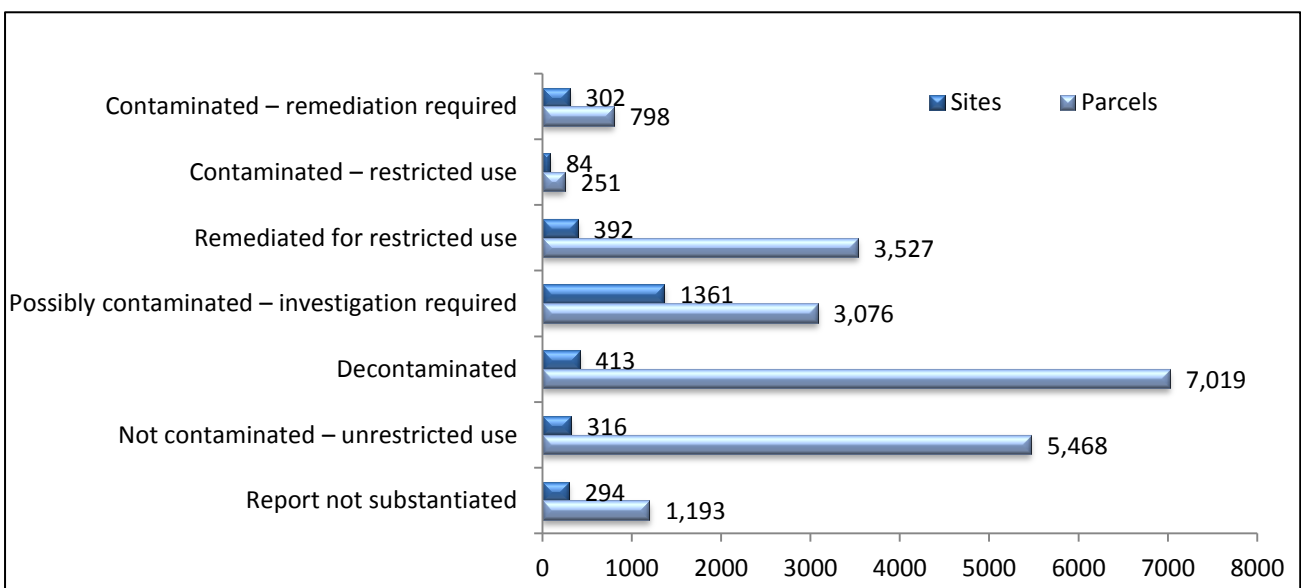


Figure 3.1 shows the number of sites reported and classified each financial year until June 2015, and quarterly since July 2015, as well as the steady increase in the total number of classified sites at the end of each period.

**Figure 3.2 Distribution at 31 December 2015 of classified sites and parcels across the seven classification categories**



## Mandatory Auditor's Report

A mandatory auditor's report (MAR) is required under the CS Act for some sites. For example, a MAR may be required where:

- a site is a source of contamination that has moved off-site to affect other properties;
- 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 23 MARs in Q2 2015–16 and 17 MARs were processed. In addition, two MARs carried forward from the previous reporting period were also processed, bringing the total number of MARs processed within this period to 19.

Eight MARs received within this period were reviewed by DER only and did not require referral to other agencies. The average processing time for the MARs reviewed by DER only was 19 days which is within DER's 21-day target. The average processing time for all MARs completed during this reporting period was 26 days, exceeding DER's 21-day target (three weeks) by five days.

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

**Table 3.2 MAR review performance by quarter**

	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16	Q2 2015–16
MARs received	15	10	11	10	23
MAR reviews completed	14	8	13	8	19
MARs carried forward	4	6	3	4*	6
Average processing time (days)	60	34	44	37	26
MARs processed by DER only	5	2	6	1	8
Average time for MARs processed by DER only (days)	20	16	19	26	19

\* One MAR carried forward from the previous reporting period was withdrawn for amendment and resubmission.

## 4. Environmental Compliance

Inspection Program	Program Description	Q2 Inspections	Year to Date Inspections	2015–16 Inspection Target	% Achieved
Waste Compliance Program	Landfills and associated waste industries	156	244	300	81%
Controlled Waste Compliance Program	Controlled waste carriers, drivers, vehicles and tanks and waste facilities	167	167	200	84%
Prescribed Premise Compliance Program	High Risk	1	1		
	Moderate Risk	11	11		
	Low Risk	6	6		
	<b>Total</b>	<b>18</b>	<b>18</b>	<b>384</b>	<b>5%</b>
Pollution Response Activities	Light Industry Program	221	221	250	88%
	Environmental Risk Reduction Program	14	19	40	48%
<b>Total</b>		<b>576</b>	<b>669</b>	<b>1174</b>	<b>57%</b>

### Waste Compliance Program

The *Waste Avoidance and Resource Recovery Levy Act 2007* provides for a landfill levy to be applied to waste received at metropolitan landfills and metropolitan waste received at landfills outside the metropolitan area. The landfill levy is intended to discourage waste disposal to landfill and to encourage resource recovery.

DER audits landfill levy returns to verify accuracy of the data submitted and exemptions applied. During the second quarter, 156 inspections of landfills and associated waste industries were undertaken to assist compliance with the landfill levy regulations.

### Prescribed Premises Compliance Program

DER is responsible for granting works approvals, registrations and licences to regulate activities prescribed under Part V of the *Environmental Protection Act 1986* (EP Act).

Through the prescribed premises compliance program, DER assesses compliance with prescribed premise licence conditions and the general provisions of the EP Act. During the second quarter of 2015–16, Environmental Compliance carried out 18 inspections.

### Controlled Waste Regulation

The purpose of the *Environmental Protection (Controlled Waste) Regulations 2004* (CW Regulations) is to enable 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 carriers, vehicle and driver licences.

During Q2 2015–16, 166 licence applications were received, with 100 per cent assessed within the 30-day statutory time frame.

### Controlled Waste Compliance Program

The controlled waste compliance program focuses on assessing obligations of controlled waste carriers, drivers and waste facilities in accordance with licence conditions and the general provisions of the Controlled Waste Regulations. During Q2 2015–16, DER completed 167 inspections.

### Pollution Response Activities

#### Light Industry Program

This two-year program involves joint inspections carried out with officers of seven local governments within priority catchments in the Swan-Canning River system. The inspections target light industrial premises conducting activities that present a risk of pollution of the river systems. The inspections aim to ensure compliance with the *Environmental Protection Act 1986* and the *Unauthorised Discharges Regulations 2004*.

There were 221 inspections completed under the Light Industry Program in Q2 2015–16. This achieves 88 per cent of the total number of inspections targeted for 2015–16.

#### Environmental Risk Reduction Program

This program includes inter-agency inspections with the Department of Mines and Petroleum and the Department of Fire and Emergency Services. The program focuses on hazardous materials handling and storage to ensure that appropriate measures are in place to prevent, minimise, mitigate and abate risks to human health and/or the environment in the event of a large scale emergency or incident.

It also includes intelligence-based reactive inspections to identify potential environmental hazards and take action to reduce the risk of pollution.

During the second quarter of 2015–16, 14 environmental risk reduction inspections were completed.

### Statutory Submissions

There were 286 Annual Environmental Reports (AERs) and Annual Audit Compliance Reports (AACRs) due for submission to DER during Q2 2015–2016. Of these, DER received 247 AERs and AACRs (86 per cent). Two were received after the required date.

## 5. Environmental Enforcement

This section summarises the performance of DER in delivering its role of regulator enforcing Western Australia's major environmental legislation—the EP Act, CS Act, and WARR Act.

### 5.1 Incident Management and Complaints

The statistical data appearing in this section are obtained from DER's Incident and Complaints 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 decided.

**Table 5.1(a) Environmental complaints<sup>1</sup>/incidents<sup>2</sup> by DER region<sup>3</sup>**

Region	Q4 2013–14		Q1 2014–15		Q2 2014–15	
	Complaint	Incident	Complaint	Incident	Complaint	Incident
Goldfields	8	70	5	30	2	42
Greater Swan	337	95	203	84	209	90
Indian Ocean Territories (IOT)	0	5	0	2	1	2
Midwest	7	16	4	21	11	30
North West	24	211	32	24	17	47
Perth	112	164	98	216	106	68
South Coast	16	48	11	26	10	25
<b>Total</b>	<b>504</b>	<b>609</b>	<b>353</b>	<b>403</b>	<b>356</b>	<b>304</b>

**Table 5.1(b) Environmental complaints<sup>1</sup>/incidents<sup>2</sup> by DER region<sup>3</sup>**

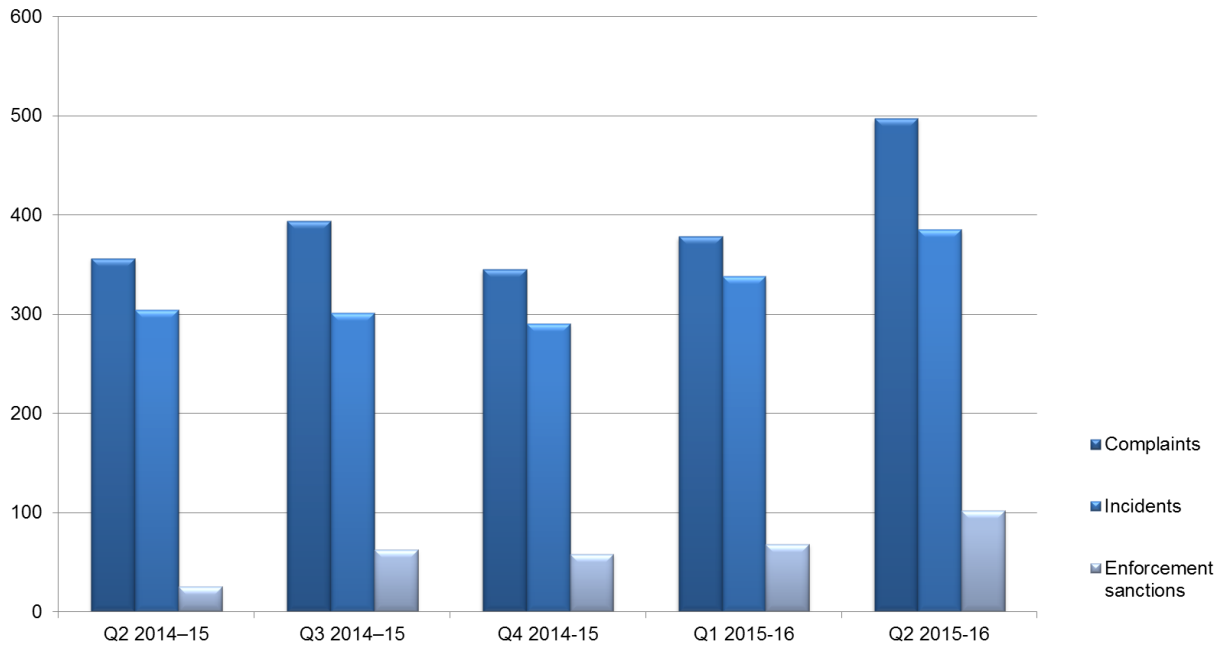
Region	Q4 2014–15		Q1 2015–16		Q2 2015–16	
	Complaint	Incident	Complaint	Incident	Complaint	Incident
Goldfields	4	40	10	44	9	42
Greater Swan	171	65	194	74	265	131
Indian Ocean Territories (IOT)	0	0	0	3	0	5
Midwest	4	13	8	20	6	20
North West	17	56	20	70	37	45
Perth	133	94	126	111	165	129
South Coast	16	22	20	16	15	13
<b>Total</b>	<b>345</b>	<b>290</b>	<b>378</b>	<b>338</b>	<b>497</b>	<b>385</b>

<sup>1</sup>A complaint is the provision of information to DER concerning a potential breach of the legislation administered by DER.

<sup>2</sup>An incident is a confirmed event, which may involve a potential breach of the legislation administered by DER.

<sup>3</sup>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 five quarters**



**Table 5.2 Environmental complaints/incidents reported by sub-category, Q2 2015-16**

Category	Complaints /Incidents	Enforcement Actions
<b>Clearing of native vegetation including:</b>	<b>44</b>	<b>13</b>
Burning	1	
Cutting	42	
Draining	0	
Grazing	0	
Poisoning	1	
Unspecified	0	
<b>Compliance including:</b>	<b>94</b>	<b>39</b>
Clearing permit	0	
Industry licence	62	
Industry registration	1	
Proactive compliance	11	
Statutory reporting requirement	10	
Works approval	7	
Unspecified	3	
<b>Contaminated sites</b>	<b>0</b>	<b>0</b>
<b>Controlled waste including:</b>	<b>7</b>	<b>0</b>
Disposal site	2	
Unauthorised disposal	1	
Unauthorised transport	4	
Waste generator	0	
Unspecified	0	

Category	Complaints /Incidents	Enforcement Actions
<b>Dumping including:</b>	<b>41</b>	<b>5</b>
Asbestos	5	
Construction and demolition	1	
Green waste	6	
Hazardous materials	5	
Household waste	18	
Tyres	6	
Unspecified	0	
<b>EP licence breach including:</b>	<b>138</b>	<b>0</b>
Condition breach—late report	29	
Condition breach—licence limit	14	
Condition breach—reporting condition	54	
Condition breach—other	41	
Unspecified	0	
<b>Emission including:</b>	<b>471</b>	<b>21</b>
Air quality	2	
Dumping waste	18	
Dust	81	
Hazardous material	25	
Light	3	
Liquid waste	84	
Noise	45	
Odour	169	
Pesticide	3	
Smoke	16	
Solid waste	7	
Unauthorised discharge	18	
Unspecified	0	
<b>Landfill levy</b>	<b>1</b>	<b>0</b>
Non-payment of levy	1	
Fail to submit return	0	
<b>Threat/Aggression/Assault<sup>4</sup></b>	<b>0</b>	<b>0</b>
Risk rating: Low	0	
<b>Other</b>	<b>86</b>	<b>13</b>
<b>Total</b>	<b>882</b>	<b>91</b>

<sup>4</sup> Incidents where a DER employee is assaulted or subject to threatening or aggressive behaviour.



Figure 5.2 Complaints and incidents received by DER region, Q2 2015–16

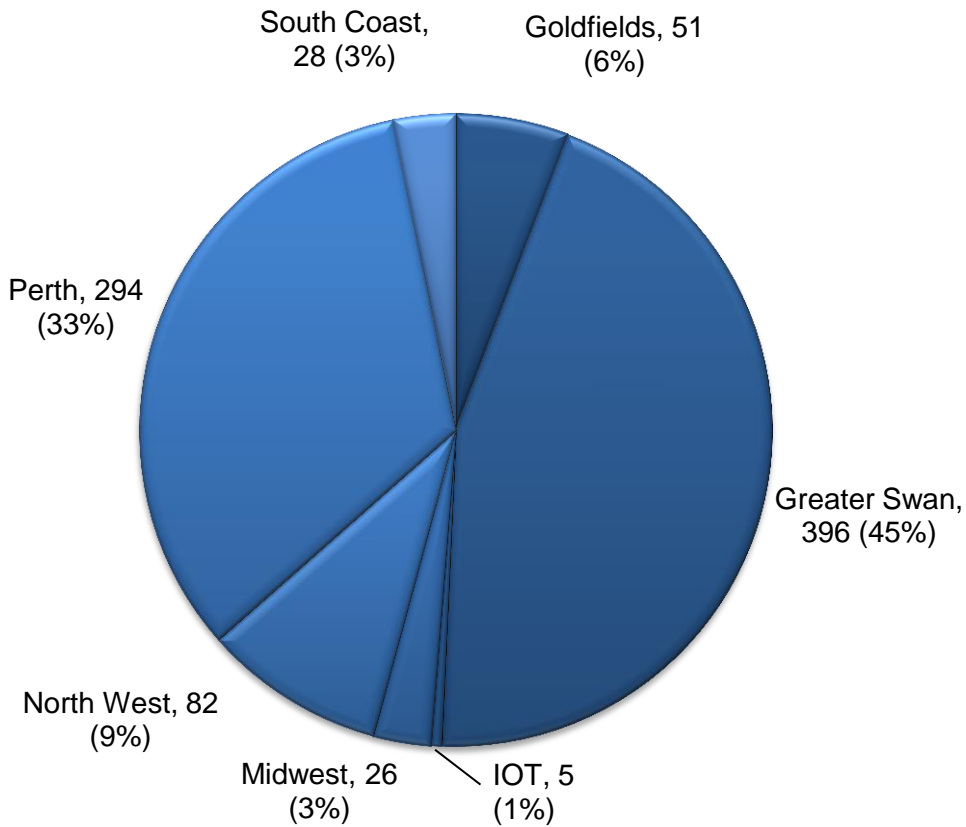
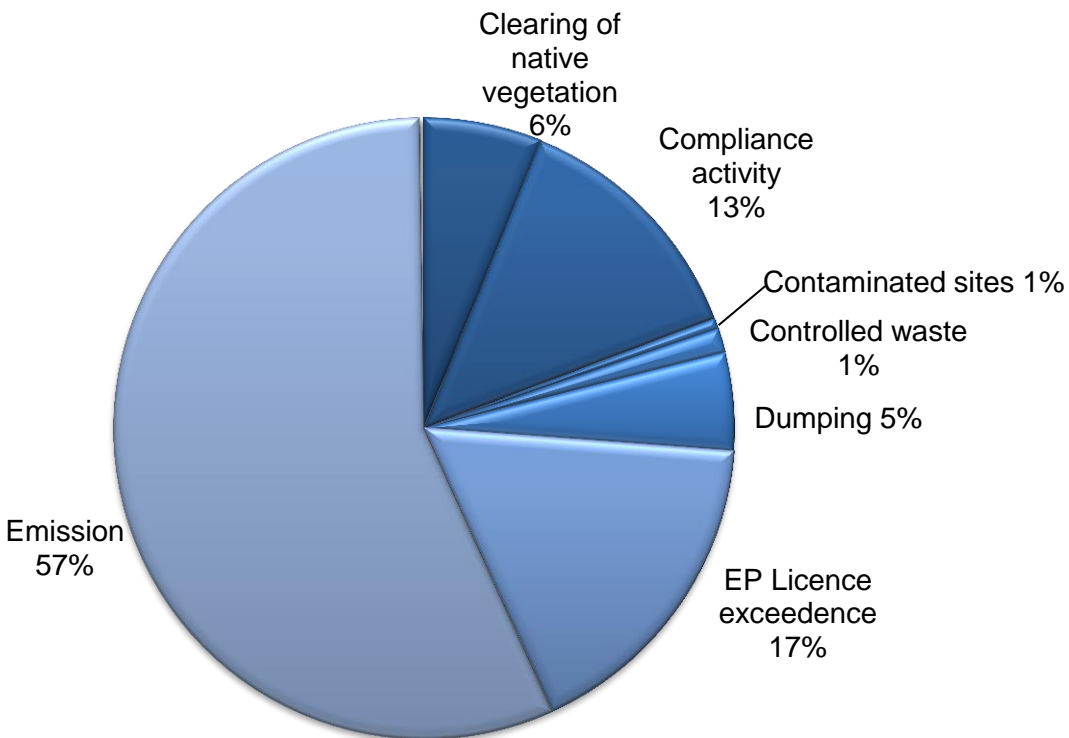


Figure 5.3 Complaints and incidents as percentages, Q2 2015–16



**Table 5.3 Enforcement sanctions undertaken over six quarters**

Type of action	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16	Q2 2015–16
Environmental field report (EFR) <sup>5</sup>	0	3	28	31	18	64
Letter of warning <sup>6</sup>	32	16	26	20	30	27
Infringement notices <sup>7</sup>	6	3	4	5	4	6
Environmental protection notice (EPN) <sup>8</sup>	0	0	0	0	0	0
Stop work order <sup>9</sup>	0	0	0	0	0	0
Statutory direction/notice <sup>10</sup>	0	1	0	0	0	0
Modified penalty <sup>11</sup>	0	0	0	0	4	0
Prosecutions commenced <sup>12</sup>	0	2	4	2	9	5
Pending prosecutions	9	8	5	9	12	10
Current prosecutions before the court	3	3	5	8	11	11

<sup>5</sup> An environmental field report (EFR) replaced the environmental field notice effective end of Q2 2014–2015. The EFR is a non-statutory written notice identifying an alleged offence, and may include a request to the recipient to take remedial action.

<sup>6</sup> A letter of warning is a non-statutory notice to an offender that prima facie evidence of a legislative breach is alleged and been noted on record.

<sup>7</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>8</sup> An environmental protection notice is a statutory notice issued pursuant to section 65 of the *Environmental Protection Act 1986*.

<sup>9</sup> A stop work order is a statutory order made by the Minister pursuant to section 69 of the *Environmental Protection Act 1986*.

<sup>10</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>11</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>12</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>13</sup>			
	Q2 2012–13	Q2 2013–14	Q2 2014–15	Q2 2015–16
Licence review/amendment <sup>14</sup>	4	2	7	6
Prescribed action <sup>15</sup>	2	0	0	0
EFR	81	42	3	64
Letter of warning	15	12	16	27
Infringement notices	11	5	3	6
EPN	0	1	0	0
Stop work order	0	0	0	0
Statutory direction/notice	2	0	1	0
Modified penalty	0	0	0	0
Prosecution	6	4	2	5

**Table 5.5 Native vegetation regulation activity, Q2 2015–16**

Activity	Number
Vegetation conservation notice (VCN) <sup>16</sup>	0 (41 active)
Clearing applications	95
Clearing approvals	85
Letters of warning	10
Prosecutions	0

<sup>13</sup> Quarters 4 for 2011–12 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, Quarter 4 figures for 2013–14 do not include actions/sanctions undertaken by SRT.

<sup>14</sup> DER may amend or revoke an existing licence for the conservation, preservation, protection, enhancement and management of the environment.

<sup>15</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.

<sup>16</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

**Street address:**

Level 4, 168 St Georges Terrace  
Perth, Western Australia

**Postal address:**

Locked Bag 33 Cloisters Square  
PERTH WA 6850  
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P: +61 8 6467 5000  
F: +61 8 6467 5562  
E: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)  
W: [www.der.wa.gov.au](http://www.der.wa.gov.au)

**Regional locations**

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

### 6.2 Quarterly Reports

Approvals Summary  
Executive Director Licensing and Approvals

Works Approvals and Licences  
Senior Manager Industry Regulation

Environmental Compliance  
Senior Manager Environmental Compliance

Native Vegetation Clearing Permits  
Senior Manager Clearing Regulation

Contaminated Sites  
Senior Manager Contaminated Sites

Environmental Enforcement  
Environmental Enforcement Senior Analyst