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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 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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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 works approval and licence applications for prescribed premises, as authorised under Part V Division 3 of the EP Act.

DER has refocused its industry regulation reform program to deliver a range of significant reforms over the coming months which will ensure transparent and consistent decisions for works approvals and licences.

The reform program will also ensure alignment with DER's recently published [Guidance Statement: Regulatory Principles](#) and the *Guidance Statement: Setting Conditions*, which will be published in the near future.

This systematic and consultative approach to reform will also provide a more streamlined and timely approvals process which will provide greater clarity for industry and certainty of outcome.

A schedule for these reform deliverables is available on DER's website at 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 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.

During the fourth quarter of 2014–15, 18 new works approval applications were submitted compared with 20, 26, and 22 in the preceding quarters. Ten works approvals were decided, 20 fewer than the number decided in the previous quarter.

DER decided 80 per cent of new works approval applications in the fourth quarter of 2014–15 within the target time frame. This is the same level as the preceding quarter. The average processing time for works approval applications during the fourth quarter of 2014–15 was 53 days.

Overall the percentage of new works approvals being decided within the target time frame has remained the same, and there has been an increase in average processing time for works approval applications for this quarter.

Four new licence applications were received in the fourth quarter of 2014–15 and five licences were decided, three more than the number decided in the previous quarter.

Three of the five decisions exceeded the target time frame with 65, 79 and 90 working days to make a decision. This resulted in a significant reduction in the percentage of new licence applications decided within the target time frame, decreasing from 100 per cent in the preceding quarter to 40 per cent this quarter.

A targeted risk-based program has been implemented to reduce the number of open applications and to ensure the timely assessment of all applications is appropriately managed in future. It is expected that performance will improve with the implementation of this approach.

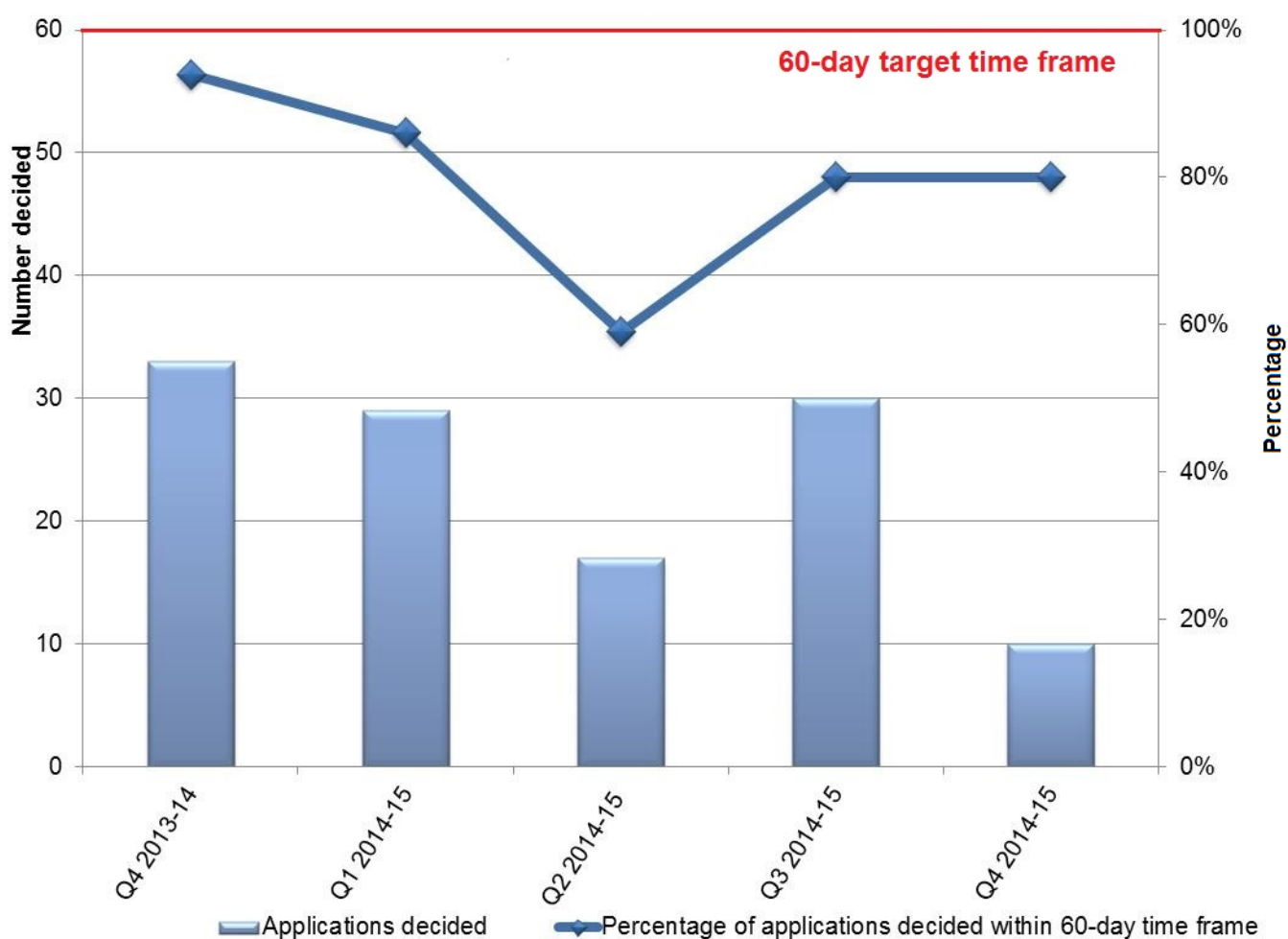
Figures 1.1 and 1.2 provide a quarterly summary since the fourth quarter 2013–14 for major resources projects approvals decided by DER, the average time taken to decide applications, and DER's performance in meeting the time frame.

Table 1.1 Major resources projects works approval applications

	Q4 2013–14	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15
No. of applications carried over from previous quarter	39	35	27	36	24
No. of new applications received	29	22	26*	20	18
No. of applications granted	33	29	17*	30	10
No. of applications awaiting fees or information from proponents	26	12	20	11	15
No. of applications refused	0	0	0	0	0
No. of applications withdrawn	0	1	0	2	2
No. of applications open as of end of quarter	35	27	36*	24	30
Average time for decision (working days)	50	50	57	49	53
Percentage decided within time frame of 60 working days (target is 100%)	94	86	59*	80	80

*Three works approval applications were omitted from Q2 2014–15 reporting. These works approvals have been included in this report. Q2 2014–15 data have been adjusted accordingly

Figure 1.1 Summary of major resources projects works approvals

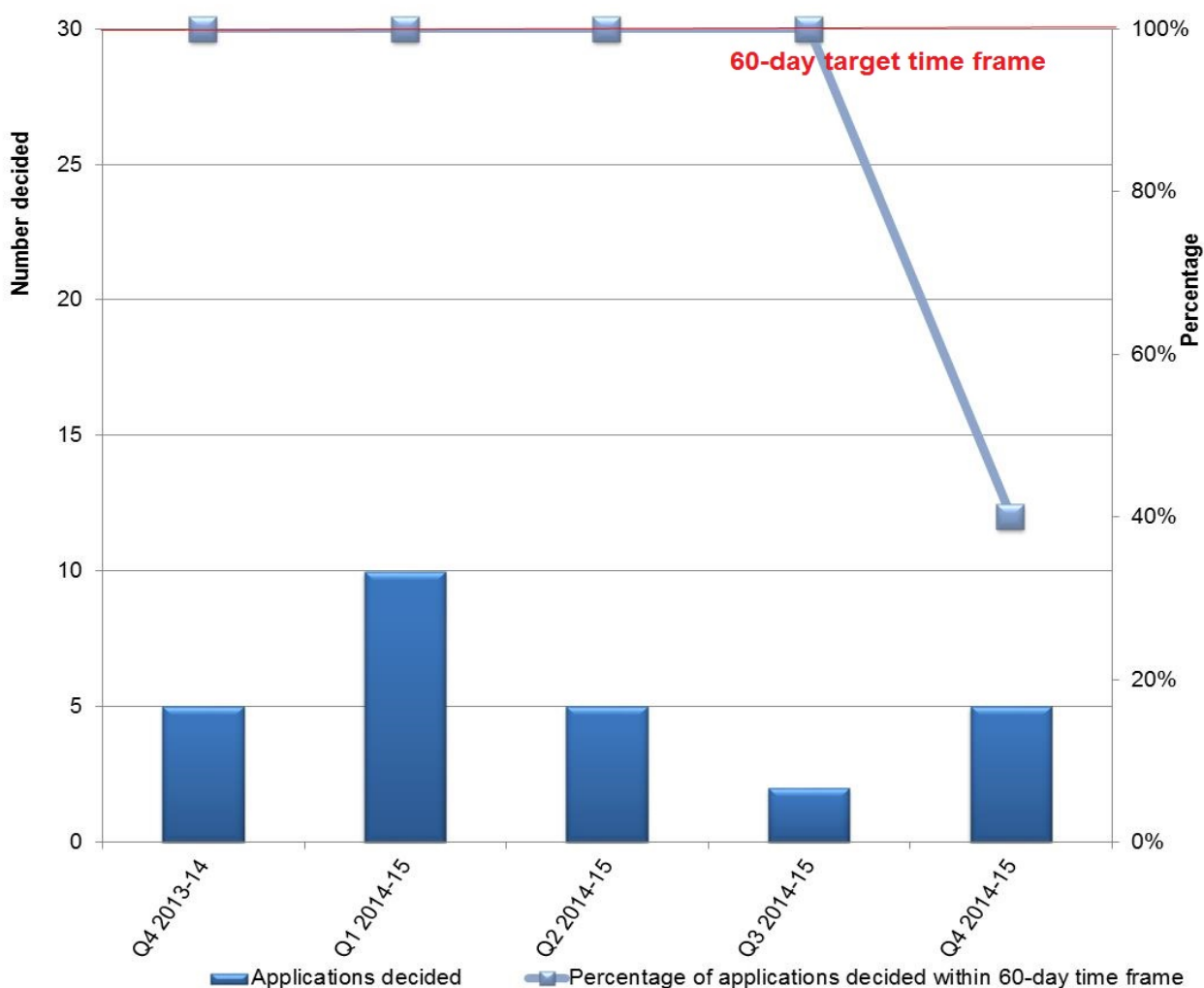


Target = 100% of works approvals decided in 60 working days.

Table 1.2 Major resources projects licence applications

	Q4 2013-14	Q1 2014-15	Q2 2014-15	Q3 2014-15	Q4 2014-15
No. of applications carried over from previous quarter	17	17	14	10	11
No. of new applications received	7	8	3	4	4
No. of applications granted	5	10	5	2	5
No. of applications awaiting fees or information from proponents	6	5	5	4	3
No. of applications refused	0	0	0	0	0
No. of applications withdrawn	2	1	2	1	0
No. of applications open at end of quarter	17	14	10	11	10
Average time for decision (working days)	35	48	43	43	58
Percentage decided within time frame of 60 working days (target is 100%)	100	100	100	100	40

Figure 1.2 Summary of major resources projects licence applications



Target = 100% of licences decided in 60 working days.

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.

Thirteen other project works approval applications were decided by DER in the fourth quarter of 2014–15. The percentage of new approvals decided within the target time frame decreased from 72 per cent to 69 per cent.

This resulted in an increased average processing time during this quarter for deciding other works approvals to 71 days, compared to 48 days in the previous quarter. Two applications well exceeded the 60 working day timeframe which accounts for the increase in average days.

Seven other projects licences were decided by DER this quarter.

Seventy-one per cent of other projects licence applications were decided within the target time frame in the fourth quarter 2014–15. This is a decrease in percentage from 84 per cent in the previous quarter.

The average time to process a licence application decreased during this quarter to 37 days, compared to 49 days in the previous quarter.

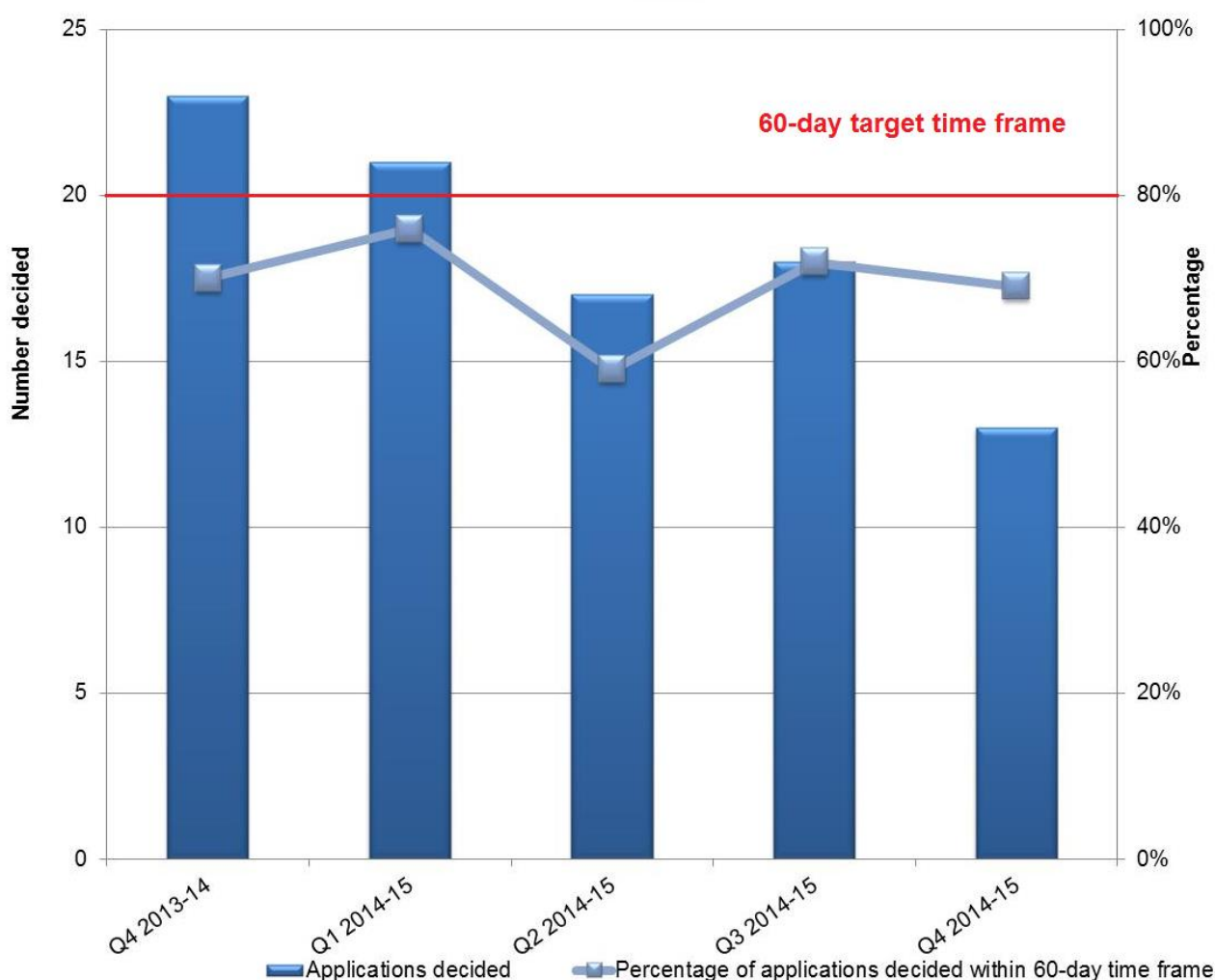
As outlined in the Major resources projects section, a targeted risk-based program has been implemented to reduce the number of open applications and to ensure the timely assessment of all applications is appropriately managed in future. It is expected that performance will improve with the implementation of this approach.

The quarterly figures for other projects 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 projects works approval applications

	Q4 2013–14	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15
No. of applications carried over from previous quarter	43	43	43	36	34
No. of new applications received	24	24	14	18	16
No. of applications granted	23	21	17	18	13
No. of applications awaiting fees or information from proponents	23	23	20	20	19
No. of applications refused	0	0	0	0	0
No. of applications withdrawn	1	3	4	2	2
No. of applications open as of end of quarter	43	43	36	34	35
Average time for decision (working days)	53	49	64	48	71
Percentage decided within time frame of 60 working days (target is 80%)	70	76	59	72	69

Figure 1.3 Summary of other projects works approvals

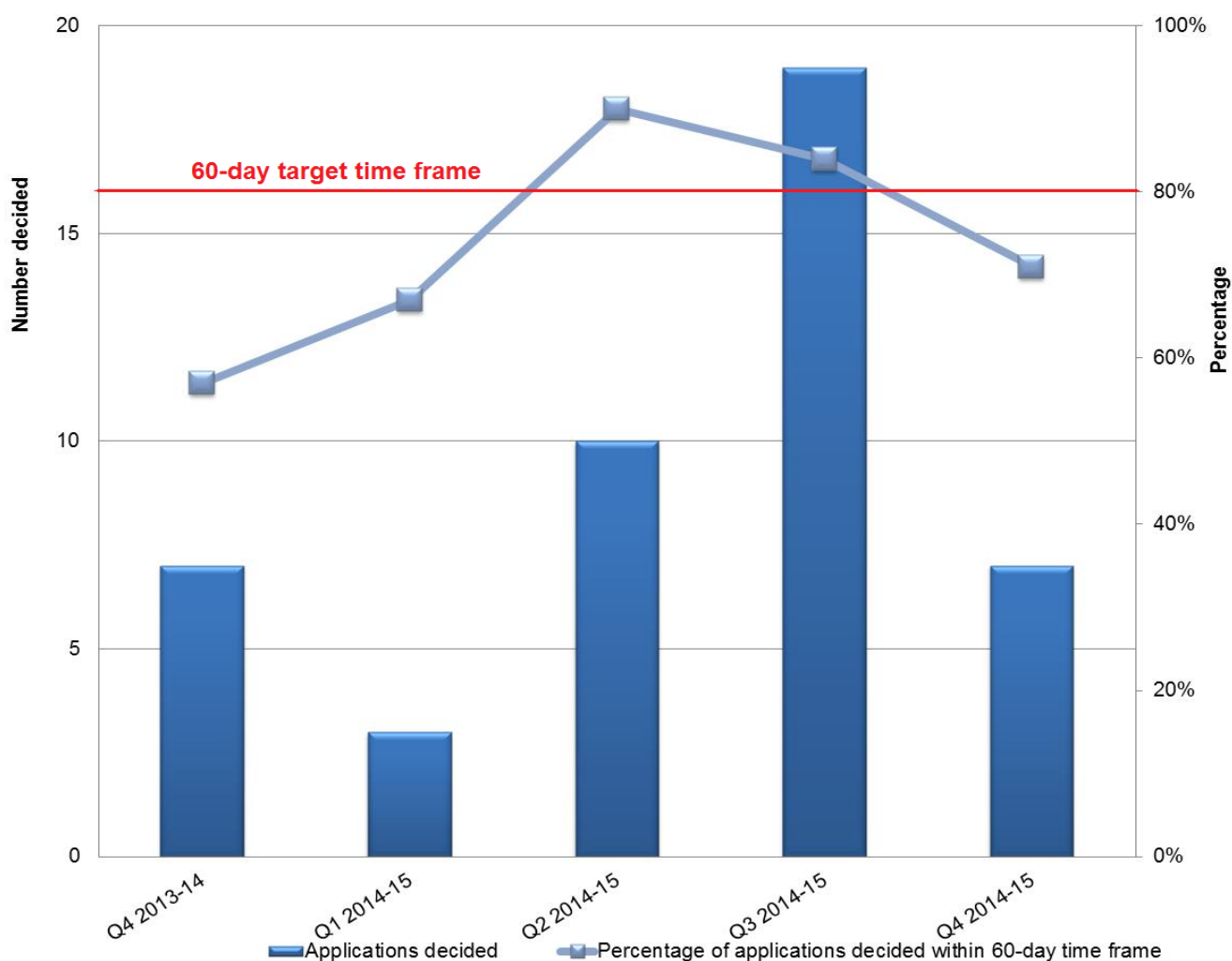


Target = 80% of works approvals decided in 60 working days.

Table 1.4 Other projects licence applications

	Q4 2013-14	Q1 2014-15	Q2 2014-15	Q3 2014-15	Q4 2014-15
No. of applications carried over from previous quarter	15	13	20	32	20
No. of new applications received	6	10	22	9	7
No. of applications granted	7	3	10	19	7
No. of applications awaiting fees or information from proponents	4	11	17	10	11
No. of applications refused	0	0	0	0	0
No. of applications withdrawn	1	0	0	2	1
No. of applications open at end of quarter	13	20	32	20	19
Percentage decided within time frame of 60 working days (target is 80%)	57	67	90	84	71
Average time for decision (working days)	74	56	38	49	37

Figure 1.4 Summary of other projects licence applications



Target = 80% of works approvals decided in 60 working days.

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 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.

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 101 clearing permit applications in the fourth quarter of 2014–15.

There were 169 open applications at the end of the fourth quarter, which is more than the 153 open applications at the end of the previous quarter, and the 124 open applications at the same time last year.

During the fourth quarter 2014–15, DER made 85 decisions, which is fewer than the previous quarter's 93 decisions and the 107 decisions made at the same time last year.

The average time to make a decision was 57 days, which is comparable to the previous quarter's average of 54 days, but more than the 38-day average for the same time last year.

Of the 85 decisions made on applications in the fourth quarter of 2014–15, 70 clearing permits

were granted within an average time of 57 days. Two clearing permits were surrendered. One application for a clearing permit was declined because the application was not valid and nine were withdrawn. Three applications for a clearing permit were refused.

The 101 applications received this quarter is comparable to the 98 applications received in the previous quarter and the 103 applications received the same time last year. There was a reduction in the number of decisions made (85 compared to 93 in the third quarter), leading to an overall increase in the number of outstanding applications to be finalised (169 compared to 153 in the third quarter).

DER acknowledges this decrease in performance, and that its risk-based approach to decision-making (having regard to the sensitivity of the environment, magnitude of impact/s and urgency of the clearing), ongoing monitoring of performance, and continual improvements to processes must be maintained and improved.

In addition to its targeted risk-based approach, which is under review to identify further opportunity for improvement, DER is developing a strategic purpose permit program suitable for those permit holders, such as local government authorities, who are likely to require (or have) multiple permits. This initiative will reduce the administrative burden, for both DER and the permit holder, associated with clearing vegetation that is in a degraded condition or of otherwise limited environmental value.

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

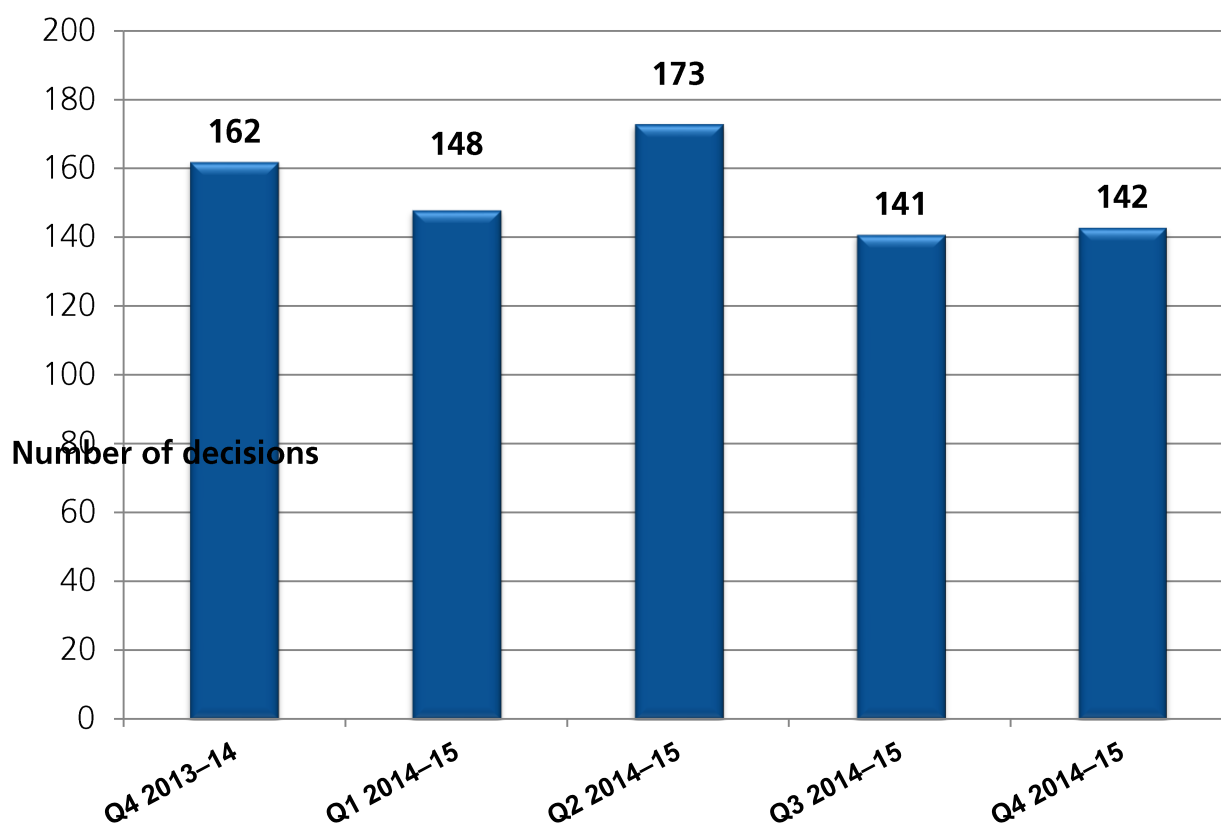


Table 2.1 Number of decisions made in Quarter 4 by DER and DMP by purpose

Purpose	Number of decisions made in Q4 2014–15				
	Less than or equal to 60 days	61 to 90 days	91 to 120 days	Greater than 120 days	Total
State development	49	0	1	0	50
Local government	15	10	4	0	29
Utilities	4	0	0	1	5
Agriculture/horticulture/forestry	2	5	3	1	11
Basic raw materials	0	1	1	0	2
Other development	27	14	1	3	45
Total	97	30	10	5	142

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	Q4 2013–14	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15
No. of applications carried over from previous periods	128	123	144	148	153
No. of applications received	103	107	130	98	101
No. of decisions that were subject to 'stop the clock'	53	53	62	38	32
Average time in 'stop the clock' for decisions in days	131	158	70	107	59
Average time for decisions in days (excluding time in 'stop the clock')	38	60	52	54	57
No. of decisions on applications	107	85	126	93	85
No. of outstanding applications at end of quarter	124	145	148	153	169
Percentage of applications that were finalised within time frames					
60 days (target = 80% of applications finalised)	63	64	62	59	53
90 days (target = 100% of all applications finalised)	94	93	96	86	85
Greater than 90 days	6	7	4	14	15

Table 2.4 Time frame data for DMP applications/decisions

Category–DMP	Q4 2013–14	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15
No. of applications carried over from previous periods	37	49	50	42	51
No. of applications received	67	63	39	57	47
No. of decisions that were subject to 'stop the clock'	41	38	30	21	30
Average time in 'stop the clock' for decisions in days	32	24	44	67	14
Average time for decisions in days (excluding time in 'stop the clock')	54	47	69	22	50
No. of decisions on applications	55	63	47	48	57
No. of outstanding applications at end of quarter	49	49	42	51	41
Percentage of applications that were finalised within time frames					
60 days (target = 80% of applications finalised)	87	86	75	96	91
90 days (target = 100% of all applications finalised)	100	97	96	100	96
Greater than 90 days	0	3	4	0	4

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

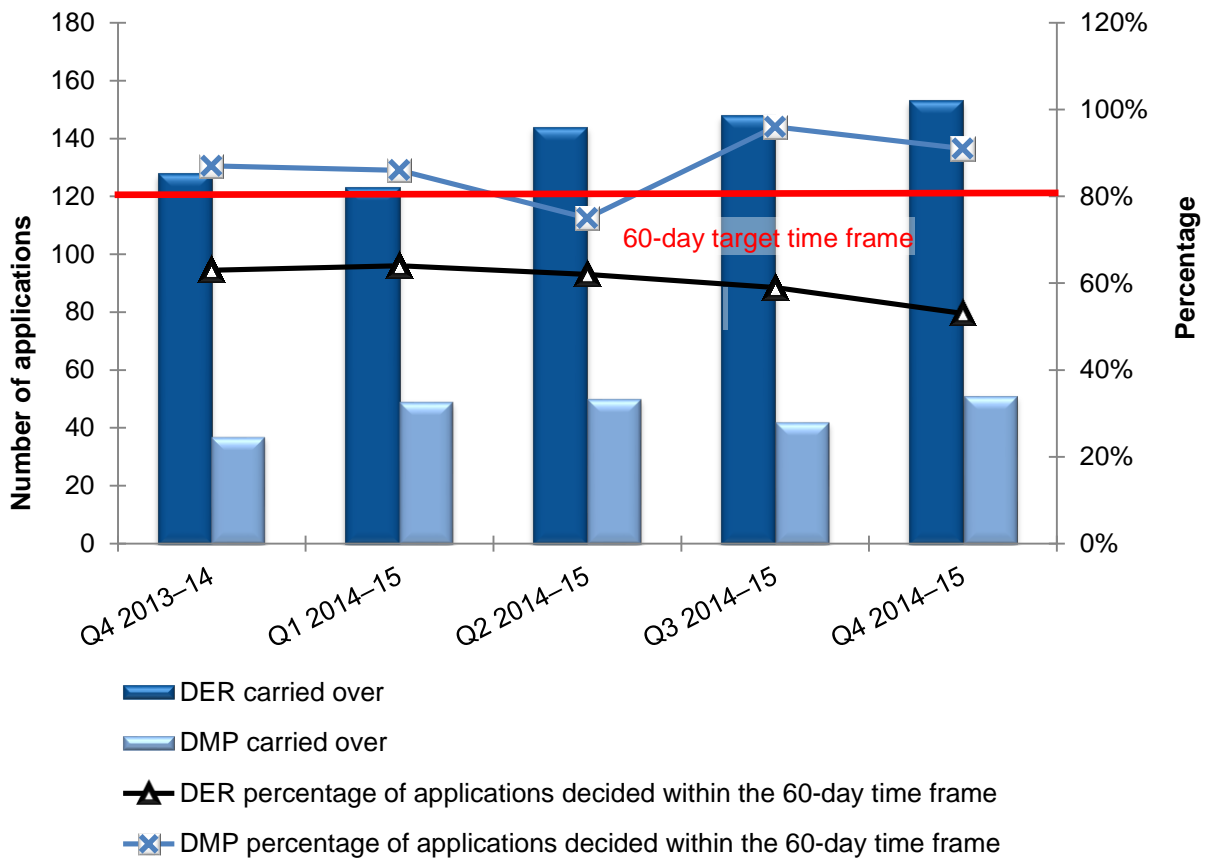


Table 2.5 Decisions subject to ‘stop the clock’*

‘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	30	14	32	57	62	41

*The total/average values in Table 2.5 may not match the total/average values shown in Table 2.6 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

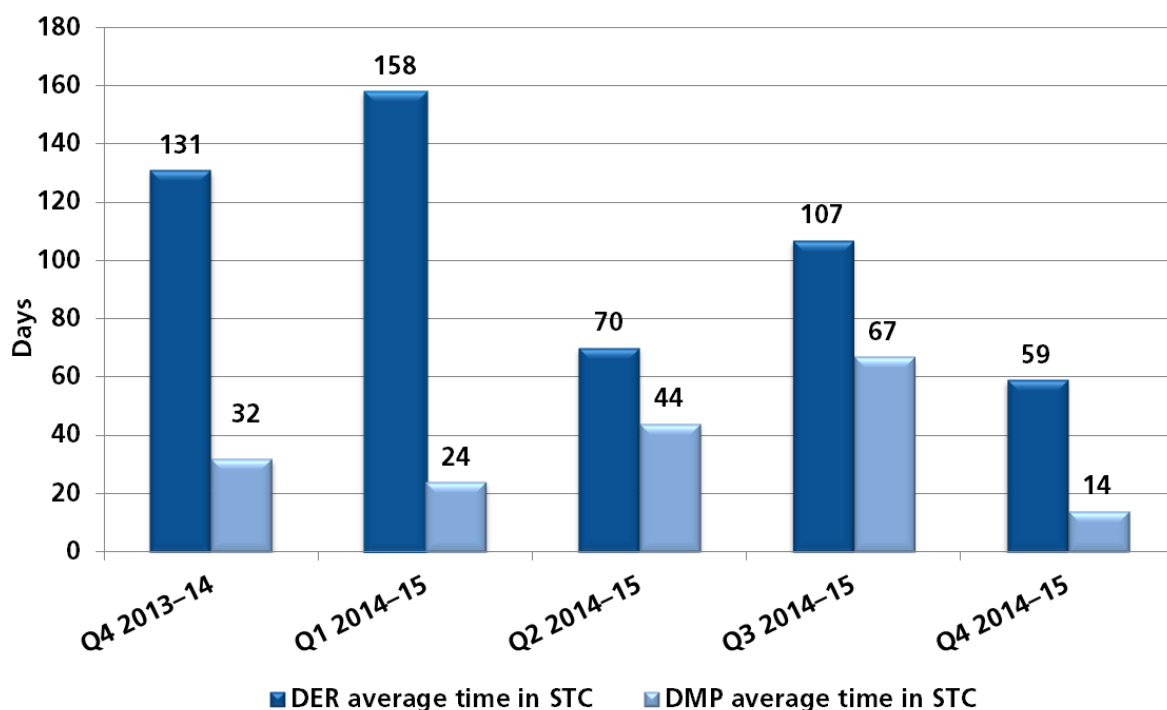


Table 2.6 Breakdown of reasons for ‘stop the clock’ by number of incidents, and average days per incident*

‘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	36	18	38	57	74	41
Decision pending	1	3	15	125	16	116
Referred to EPA	0	0	2	28	2	28
Total/average	37	10	55	70	92	61

*The total/average values in Table 2.6 may not match the total/average values shown in Table 2.5 because a decision may be the subject of more than one reason for an incident of ‘stop the clock’.

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.

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 2015, DER had received 3,612 reports of known or suspected contaminated sites (also referred to as Form 1s) since the CS Act commenced. Of the total number of reports, 55 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

Twenty-five sites were reported in the fourth quarter of 2014–15 (see Table 3.1 and Figure 3.1).

By 30 June 2015, a total of 3,039 sites had been classified (made up of 20,207 individual lots or land parcels) under the CS Act (see Figure 3.2).

A total of 122 sites were classified in the fourth quarter of 2014–15.

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 under way, 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

	Q4 2013-14	Q1 2014-15	Q2 2014-15	Q3 2014-15	Q4 2014-15
Carried over from previous quarter	9	11	14	13	19
New form 1s received	31	50	33	43	25
Processed within statutory 45 days	29	47	33	36	38
Open at end of quarter*	11	14	13	19	6
Exceeding statutory 45 days	0	0	1	1	0

* Form 1s 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

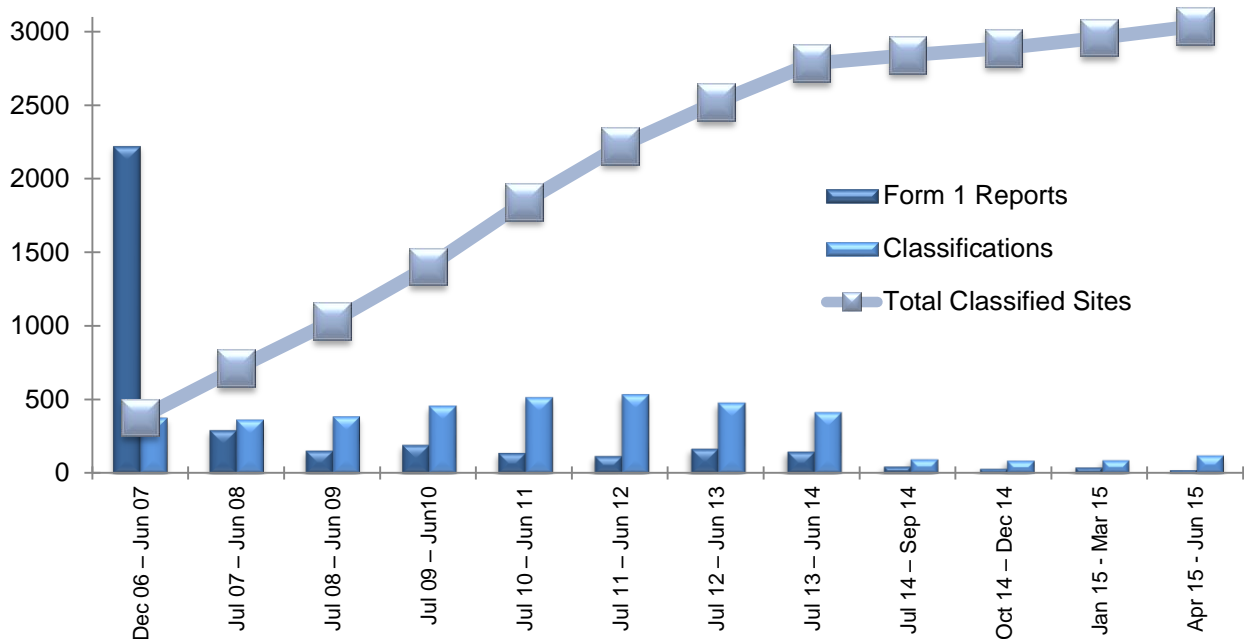
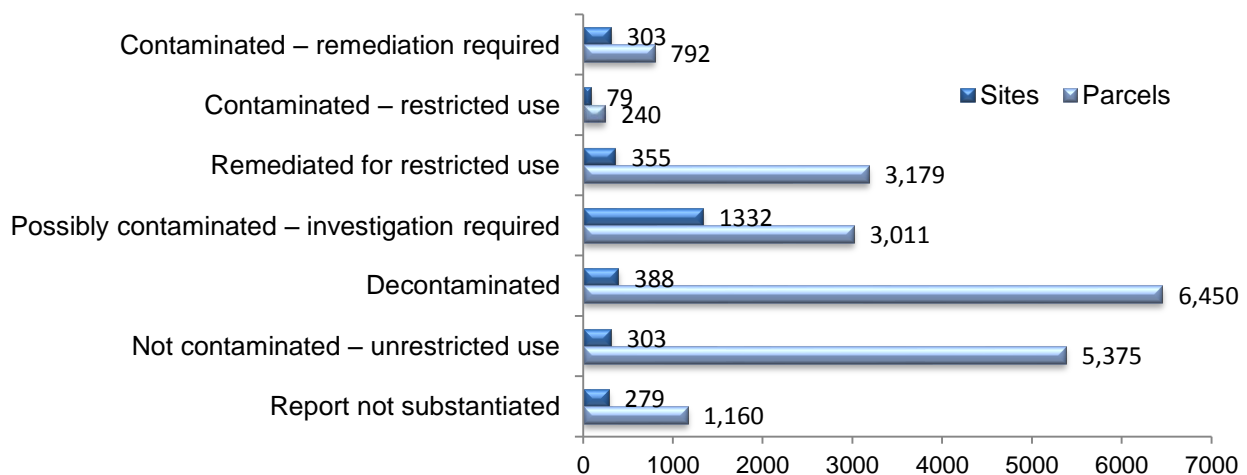


Figure 3.1 shows the number of sites reported and classified each financial year until June 2014, and quarterly since July 2014, as well as the steady increase in the total number of classified sites at the end of each period.

Figure 3.2 Distribution at 30 June 2015 of classified sites and parcels across the seven classification categories



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;
- 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 11 MARs in the fourth quarter of 2014–15 and 10 MARs were processed. In addition, three 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 not requiring referral to other agencies and reviewed by DER only was 19 days, within DER's 21-day target. The average processing time for all MARs completed during this reporting period was 44 days, exceeding DER's 21-day target (three weeks).

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

Table 3.2 MAR review performance by quarter

	Q4 2013–14	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15
MARs received	17	18	15	10	11
MAR reviews completed	13	23	14	8	13
MARs carried forward	8*	3	4	6	3**
Average processing time (days)	31	32	60	34	44
MARs processed by DER only	6	13	5	2	6
Average time for MARs processed by DER only (days)	17	22	20	16	19

*Two auditors' reports previously carried forward at the end of Q4 2013–14 are not 'mandatory' audits within the meaning of regulation 31 of the Contaminated Sites Regulations 2006 and were included in the statistics in error. The error has been corrected.

**One MAR previously carried forward at the end of Q3 2014–15 was subsequently rejected on review by DER based on insufficient information.

4. Environmental compliance

DER’s planned compliance activities are coordinated through its Annual Compliance Program (the program).

4.1 Annual Compliance Programs

There have been some changes to the 2014–15 programs, including the addition of dedicated waste and native vegetation compliance programs.

The program commenced on 1 July 2014 and incorporates the five compliance streams outlined in Table 4.1.

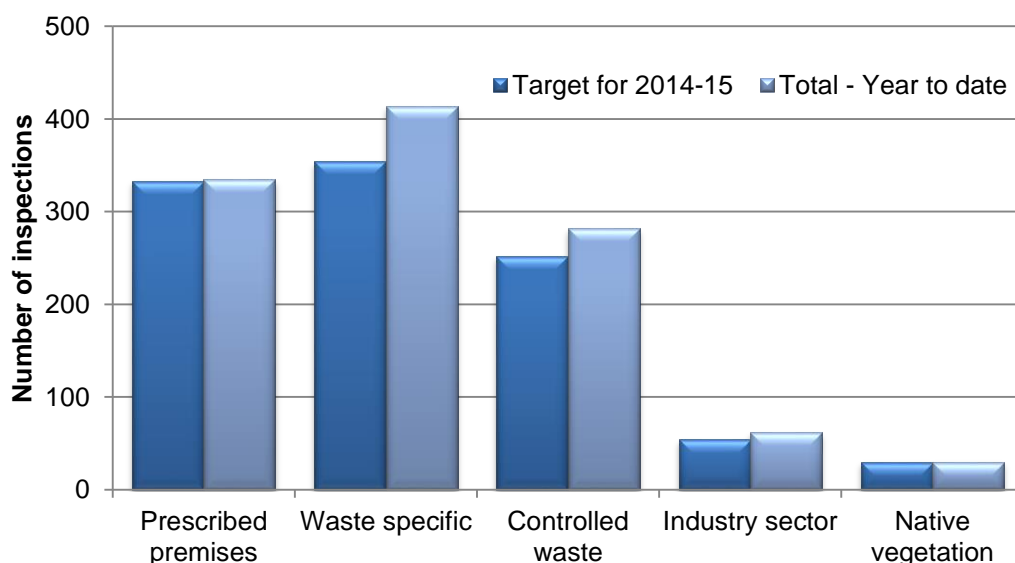
Table 4.1 2014–15 Annual Compliance Programs

Program	Scope
Regional prescribed premises compliance program	Assessing compliance with Part V Division 3 of the EP Act.
Waste compliance program	Targeted compliance at landfills and associated waste facilities.
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.
Native vegetation compliance program	Assessing compliance with Part V Division 2 of the EP Act.

Inspections

A total of 971 proactive inspections were planned for the 2014–15 financial year. The 2014–2015 program concluded on 30 June 2015 with 1,086 proactive inspections being undertaken, exceeding the target by 11.8 per cent. The results against the targets are outlined in Figure 4.1.

Figure 4.1 Inspections completed 2014–15



4.2 Progress report—Annual Compliance Programs 2014–15

All compliance programs concluded on 30 June 2015. A breakdown of the results of the 2014–15 compliance program is outlined in the following sections.

Regional prescribed premises program

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

A total of 333 prescribed premises inspections were planned for the 2014–15 financial year.

During the fourth quarter of 2014–15, DER completed 116 (35 per cent) planned inspections. During 2014–15, 335 inspections (101 per cent) were completed.

Waste compliance program

In line with the *Waste Strategy for Western Australia: Creating the Right Environment*, a dedicated prescribed premises compliance inspection program is implemented by DER to monitor environmental performance at landfills and associated waste industries, including compliance with the landfill levy regulations. The objectives of the program are:

- to ensure enforcement of licence conditions and landfill levy regulations at landfills and waste transfer/processing sites; and
- to ensure non-compliant landfill operators and/or processors do not achieve a competitive advantage by not making appropriate landfill levy payments.

The program assesses compliance with the EP Act, the WARR Act, the *Waste Avoidance and Resource Recovery Levy Act 2007* and associated regulations.

Three hundred and fifty-four inspections were planned for waste compliance for the 2014–15 financial year.

One hundred and three inspections (29 per cent) were completed during the fourth quarter of 2014–15. During 2014–15, DER completed 414 inspections, exceeding the program target by 17 per cent.

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

During 2014–15, 100 per cent of the 568 new licence applications received were assessed within the 30-day statutory time frame. During the fourth quarter, 138 licence applications were received, with 100 per cent being 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 CW Regulations.

During the fourth quarter of 2014–15, DER completed 111 inspections, which equated to 44 per cent of planned controlled waste inspections for the 2014–15 financial year. In 2014–15, DER completed 282 inspections under the controlled waste compliance program, exceeding the program target by 12 per cent.

Table 4.2 Controlled waste compliance program targets and actual 2014–15

Controlled waste compliance programs	Target for 2014–15 financial year	Actual for 2014–15 financial year	% of target achieved
General inspections	100	120	120
Controlled waste—waste facilities	40	43	108
Targeted—controlled waste industry	112	119	106
Total	252	282	112

Industry sector compliance program

The 2014–15 industry sector compliance program incorporates the compliance streams outlined in Table 4.3.

Table 4.3 Industry sector compliance program targets and actual 2014–15

Industry sector compliance programs	Target for 2014–15 financial year	Actual for 2014–15 financial year	% of target achieved
i. Category 67A compost manufacturing and soil blending compliance program*	28	28	100
ii. Ports compliance program	26	27	103
iii. Abrasive blasting and metal coating regulations compliance program	Industry consultation		
iv. Used tyre regulations compliance program	Industry and legislation review		
Total	54	55	102

*One composting premises was removed from the program due to ongoing investigations.

i. Category 67A compost manufacturing and soil blending compliance program

Premises undertaking compost manufacturing and soil blending in excess of 1,000 tonnes per year are regulated by DER as prescribed premises under Category 67A of Schedule 1 Part 1 of the *Environmental Protection Regulations 1987*.

A targeted compliance program was developed to assess industry compliance with licence conditions and the general provisions of the EP Act.

The program has been completed, with all 28 inspections undertaken in the first quarter of 2014–15.

ii. Ports compliance program

The ports compliance program assesses compliance against licence conditions and the general provisions of the EP Act at port facilities across the State, and is aligned with the regional prescribed premises program.

The program has now been completed with 27 inspections of licensed premises (103 per cent) undertaken in 2014–2015, of which eight were completed in the fourth quarter. The additional inspection was the result of a licence being issued for a port facility after the commencement of the ports compliance program.

In addition to the inspections of the licensed port facilities, a further five inspections were undertaken of port facilities holding a prescribed premise registration and port facilities which have neither a licence nor registration.

iii. Abrasive blasting and metal coating regulations compliance program

The *Environmental Protection (Abrasive Blasting) Regulations 1998* and the *Environmental*

Protection (Metal Coating) Regulations 2001 place obligations on operators of premises undertaking these processes.

The primary purpose of these regulations is to provide for the protection of the environment from actual or potential discharges resulting from these operations.

Industry guidelines for these regulations were developed in the 2013–14 period. Industry consultation for the guidelines was undertaken during the third quarter. No comments from industry were received during the consultation period and the guidelines are now being finalised and will be placed on the DER website.

iv. Used tyre regulation framework

This compliance assessment is part of a wider departmental initiative examining the effectiveness of the current used tyre regulatory framework.

The compliance program will assess used tyre transportation, storage and processing as well as review existing overarching policies.

This program commenced in the third quarter of 2014–15 with a review of legislation and current practices and procedures. This process has now been completed and a report is being prepared.

Native vegetation compliance programs

The native vegetation compliance programs consist of three compliance streams:

- compliance with offsets required under approved clearing permits (the offsets program);
- compliance with vegetation conservation notices (VCNs) (the VCN program); and
- compliance with refused permit notifications.

Thirty inspections or desktop assessments were planned under the three compliance streams during 2014–15. All of these inspections and desktop assessments have now been completed.

The offsets program was completed in the second quarter of 2014–15.

The VCN program was completed in the third quarter of 2014–15.

The refused permit notification program was completed in the fourth quarter of 2014–15.

Other compliance activities

Statutory submissions

One hundred and ninety-one (191) Annual Environmental Reports (AERs) and Annual Audit Compliance Reports (AACRs) were due to be submitted to DER during the fourth quarter of 2014–15.

One hundred and seventy-one (171) AERs and AACRs (89 per cent) were received.

Environmental scans

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

During 2014–15 three environmental scans were undertaken in the Goldfields region.

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 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.

Table 5.1(a) Environmental complaints¹/incidents² by DER region³ 2013–14

Region	Q2 2013–14		Q3 2013–14		Q4 2013–14	
	Complaint	Incident	Complaint	Incident	Complaint	Incident
Goldfields	3	55	9	102	8	70
Greater Swan	177	190	236	157	337	95
Indian Ocean Territories (IOT)	1	6	1	7	0	5
Midwest	8	40	4	30	7	16
North West	7	83	12	78	24	211
Perth	81	125	84	125	112	164
South Coast**	19	54	22	106	16	48
Total/average	296	553	368	605	504	609

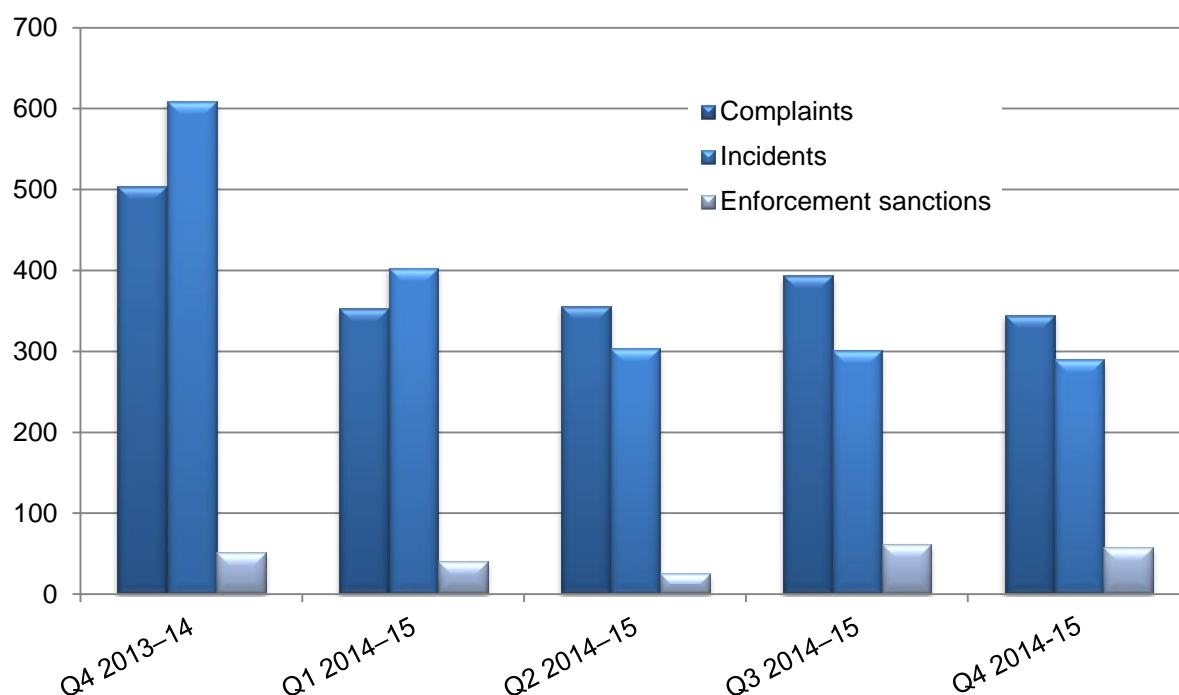
Table 5.1(b) Environmental complaints¹/incidents² by DER region³ 2014–15

Region	Q2 2014–15		Q3 2014–15		Q4 2014–15	
	Complaint	Incident	Complaint	Incident	Complaint	Incident
Goldfields	2	42	6	49	4	40
Greater Swan	209	90	196	75	171	65
Indian Ocean Territories (IOT)	1	2	1	1	0	0
Midwest	11	30	18	23	4	13
North West	17	47	7	34	17	56
Perth	106	68	156	90	133	94
South Coast**	10	25	10	29	16	22
Total/average	356	304	394	301	345	290

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

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

³DER 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, Q4 2014-15

Category	Complaints /Incidents	Enforcement Actions
Clearing of native vegetation including:	44	8
• Burning	2	
• Cutting	40	
• Draining	0	
• Grazing	1	
• Poisoning	1	
• Unspecified	0	
Compliance including:	93	4
• Clearing permit	1	
• Industry licence	73	
• Industry registration	3	
• Proactive compliance	7	
• Statutory notice	3	
• Works approval	6	
• Unspecified	0	
Contaminated sites	0	0
Controlled waste including:	11	1
• Disposal site	4	
• Unauthorised disposal	2	
• Unauthorised transport	5	

Category	Complaints /Incidents	Enforcement Actions
• Waste generator	0	
• Unspecified	0	
Dumping including:	43	1
• Asbestos	4	
• Construction & demolition	6	
• Green waste	5	
• Hazardous materials	5	
• Household waste	18	
• Tyres	5	
• Unspecified	0	
EP licence breach including:	55	7
• Condition breach – late report	3	
• Condition breach – licence limit	14	
• Condition breach – reporting condition	18	
• Condition breach – other	20	
• Unspecified	0	
Emission including:	322	26
• Air quality	5	
• Dumping waste	9	
• Dust	25	
• Hazardous material	18	
• Light	0	
• Liquid waste	71	
• Noise	34	
• Odour	82	
• Pesticide	6	
• Smoke	24	
• Solid waste	10	
• Unauthorised discharge	38	
• Unspecified	0	
Landfill levy	1	0
• Non-payment of levy	0	
• Fail to submit return	1	
Threat/Aggression/Assault⁴	1	0
• Risk rating: Low	1	
Other	65	12
Total	635	59

⁴ Incidents where a DER employee is assaulted or subject to threatening or aggressive behaviour.

Figure 5.2 Complaints and incidents received by DER region, Q4 2014–15

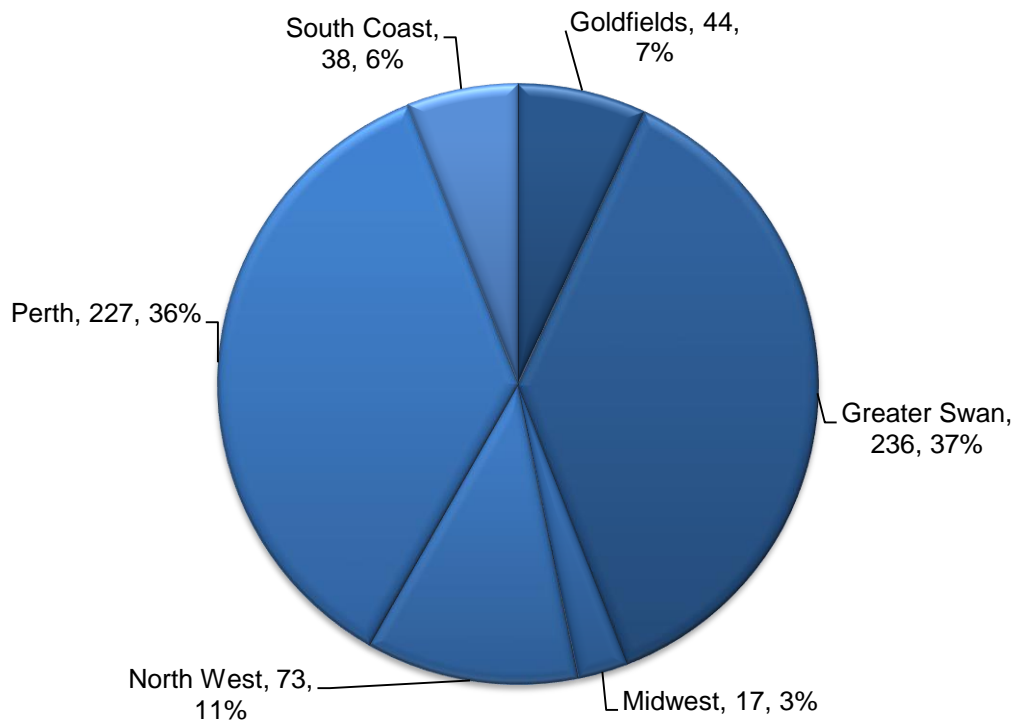


Figure 5.3 Complaints and incidents as percentages, Q4 2014–15

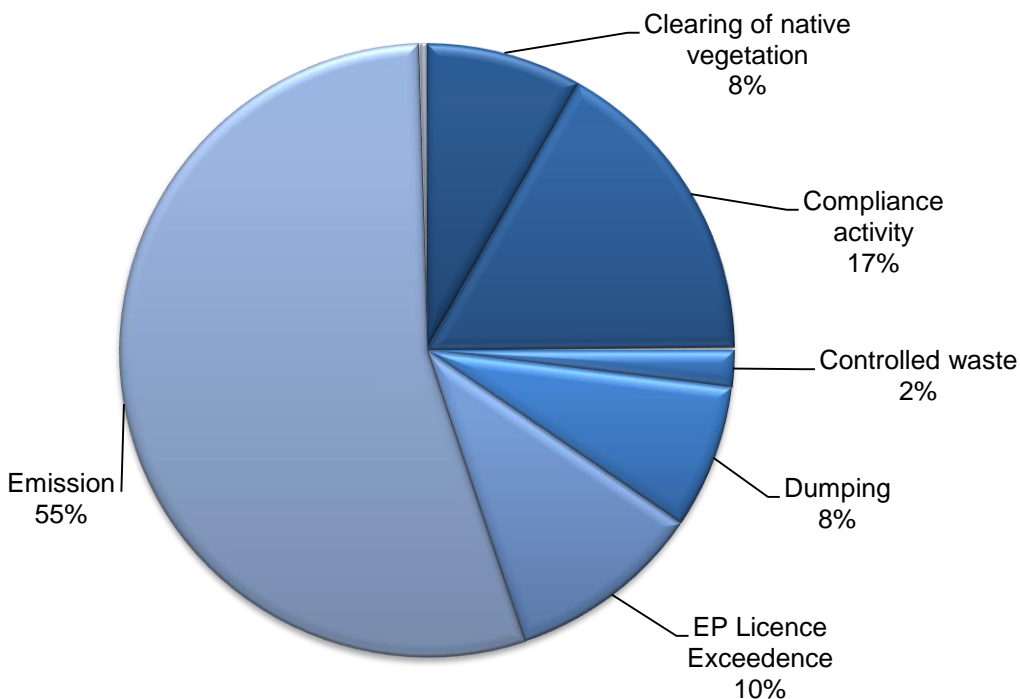


Table 5.3 Enforcement sanctions undertaken over six quarters

Type of action	Q3 2013–14	Q4 2013–14	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15
Environmental field report (EFR) ⁵	37	19	0	3	28	31
Letter of warning ⁶	11	25	32	16	26	20
Infringement notices ⁷	4	0	6	3	4	5
Environmental protection notice (EPN) ⁸	0	0	0	0	0	0
Stop work order ⁹	0	0	0	0	0	0
Statutory direction/notice ¹⁰	2	0	0	1	0	0
Modified penalty ¹¹	0	0	0	0	0	0
Prosecutions commenced ¹²	3	0	0	2	4	2
Pending prosecutions	9	11	9	8	5	9
Current prosecutions before the court	6	4	3	3	5	8

⁵ 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.

⁶ 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.

⁷ 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.

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

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

¹⁰ 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.

¹¹ 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.

¹² 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 ¹³			
	Q4 2011–12	Q4 2012–13	Q4 2013–14	Q4 2014–15
Licence review/amendment ¹⁴	9	4	2	1
Prescribed action ¹⁵	1	0	2	0
EFR	70	46	19	31
Letter of warning	36	35	25	20
Infringement notices	4	2	0	5
EPN	0	1	0	0
Stop work order	0	0	0	0
Statutory direction/notice	1	1	3	0
Modified penalty	2	0	0	0
Prosecution	4	1	0	2

Table 5.5 Native vegetation regulation activity, Q4 2014–15

Activity	Number
Vegetation conservation notice (VCN) ¹⁶	0 (45 active)
Clearing applications	101
Clearing approvals	70
Letters of warning	8
Prosecutions	0

¹³ 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.

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

¹⁵ 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.

¹⁶ 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

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Regional locations

See 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
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