



# Quarterly reporting

*Quarter 2 2014–15*

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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.

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.

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

- works approvals and licences—number and timeliness of decisions made on works approvals and licences for major resource 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 (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.

# 1. Works approvals and licences

## 1.1 Introduction

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

DER is well advanced in introducing further licensing reform in its Part V Division 3 regulatory process that should result in a more streamlined and timely approvals process and certainty of outcome.

Reform initiatives include the Re-Engineering for Industry Regulation and Environment (REFIRE) program and improvements to application processes.

## 1.2 Performance

### Major resources projects

DER and its predecessor agencies have tracked and reported performance in deciding major resource project 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 resource project approvals, DER has set a target to decide 100 per cent of works approval and licence applications within 60 working days.

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

During the second quarter of 2014–15, 23 new works approval applications were submitted compared with 22, 29, and 36 in the preceding quarters.

Eighteen works approvals were decided, 11 fewer than the number decided in the previous quarter.

DER decided 61 per cent of new works

approval applications in the second quarter of 2014–15 within the target time frame. This is a percentage decrease from the preceding quarter (86 per cent).

The average processing time for works approval applications during the second quarter of 2014–15 was 57 days.

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

DER's industry regulation reform program has been refocused to provide a broader strategic direction to the overall delivery of the business, and will improve DER's regulatory performance. The reforms streamline the processes for regulation of emissions and discharges, and clearing of native vegetation.

It is anticipated that performance will improve progressively with the ongoing implementation of the reform program, and benefits will be evident from the fourth quarter of 2014–15.

Three new licence applications were received in the second quarter of 2014–15 and five licences were decided, five fewer than the number decided in the previous quarter.

The percentage of new licence applications decided within the target time frame remains at 100 per cent.

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

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

	Q2 2013–14	Q3 2013–14	Q4 2013–14	Q1 2014–15	Q2 2014–15
Carried over from previous quarter	23	35	39	35	27
New	32	36	29	22	23
Granted	20	30	33	29	18
Awaiting fees or information from proponents	25	35	26	12	20
Refused	0	0	0	0	0
Withdrawn	0	2	0	1	0
Open at end of quarter	35	39	35	27	32
Percentage decided within target time frame*	95	90	94	86	61
Average time to decide (working days)	49	53	50	50	57

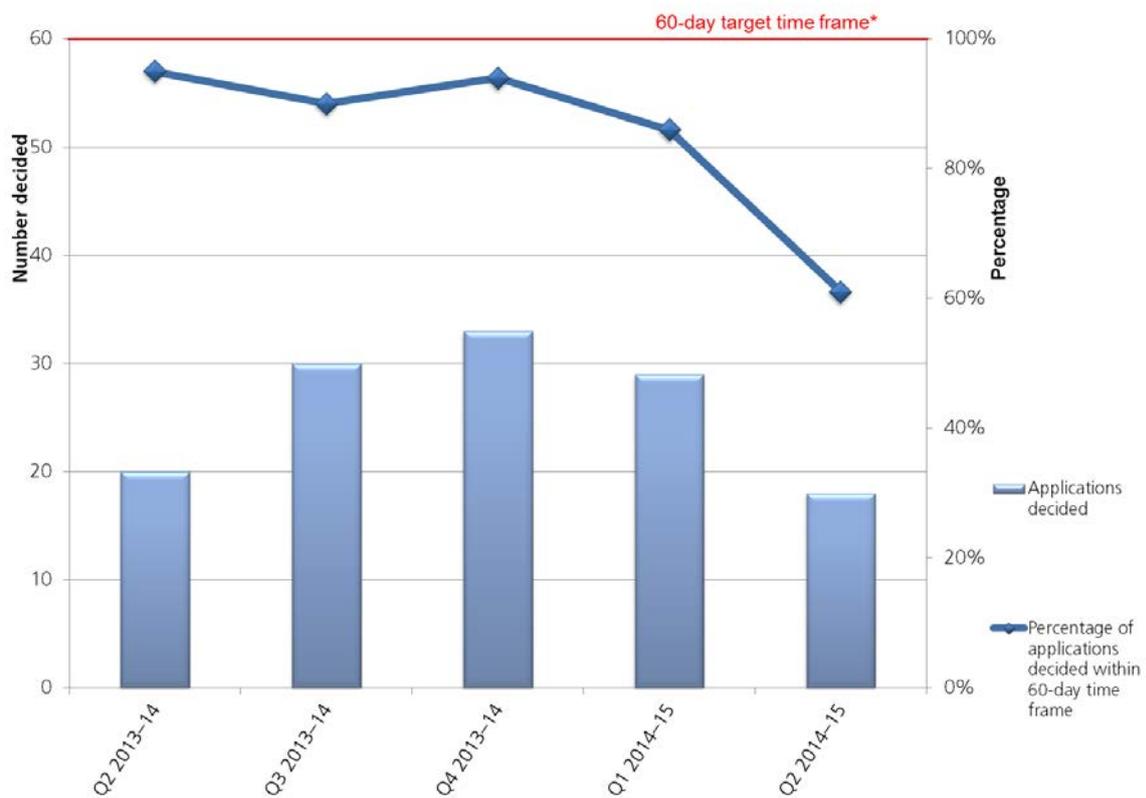
\*Target time frame = 100% of works approvals decided in 60 working days.

**Table 1.2 Major resource project licence applications**

	Q2 2013–14	Q3 2013–14	Q4 2013–14	Q1 2014–15	Q2 2014–15
Carried over from previous quarter	22	20	17	17	14
New	5	1	7	8	3
Granted	6	4	5	10	5
Awaiting fees or information from proponents	3	0	6	5	5
Refused	0	0	0	0	0
Withdrawn	1	0	2	1	2
Open at end of quarter	20	17	17	14	10
Percentage decided meeting target time frame*	83	100	100	100	100
Average time to decide (working days)	45	43	35	48	43

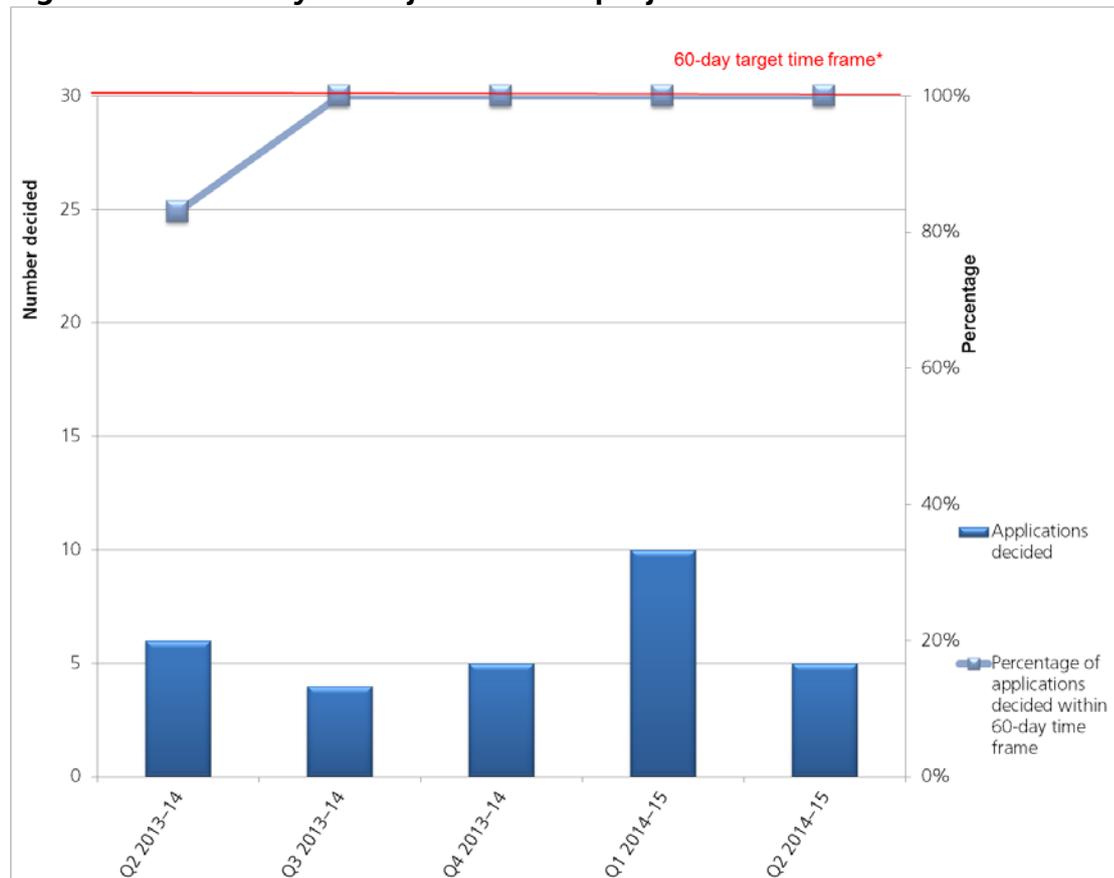
\*Target time frame = 100% of licences decided in 60 working days.

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



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

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



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

## Other projects

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

Seventeen other project works approval applications were decided by DER in the second quarter of 2014–15. The percentage of new approvals decided within the target time frame decreased from 76 per cent to 59 per cent.

This resulted in an increased average processing time during this quarter for deciding other works approvals to 64 days, compared to 49 days in the previous quarter.

Ten other project licences were decided by DER this quarter.

Ninety per cent of other project licence applications were decided within the target time frame this quarter. This is an increase in percentage from 67 per cent in the previous quarter.

The average time to process a licence application improved during this quarter to 38 days, compared to 56 days in the previous quarter.

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

**Table 1.3 Other project works approval applications**

	Q2 2013–14	Q3 2013–14	Q4 2013–14	Q1 2014–15	Q2 2014–15
Carried over from previous quarter	29	35	43	43	43
New	28	31	24	24	14
Granted	22	20	23	21	17
Awaiting fees or information from proponents	19	28	23	23	20
Refused	0	0	0	0	0
Withdrawn	0	3	1	3	4
Open at end of quarter	35	43	43	43	36
Percentage decided meeting target time frame*	91	90	70	76	59
Average time to decide (working days)	37	47	53	49	64

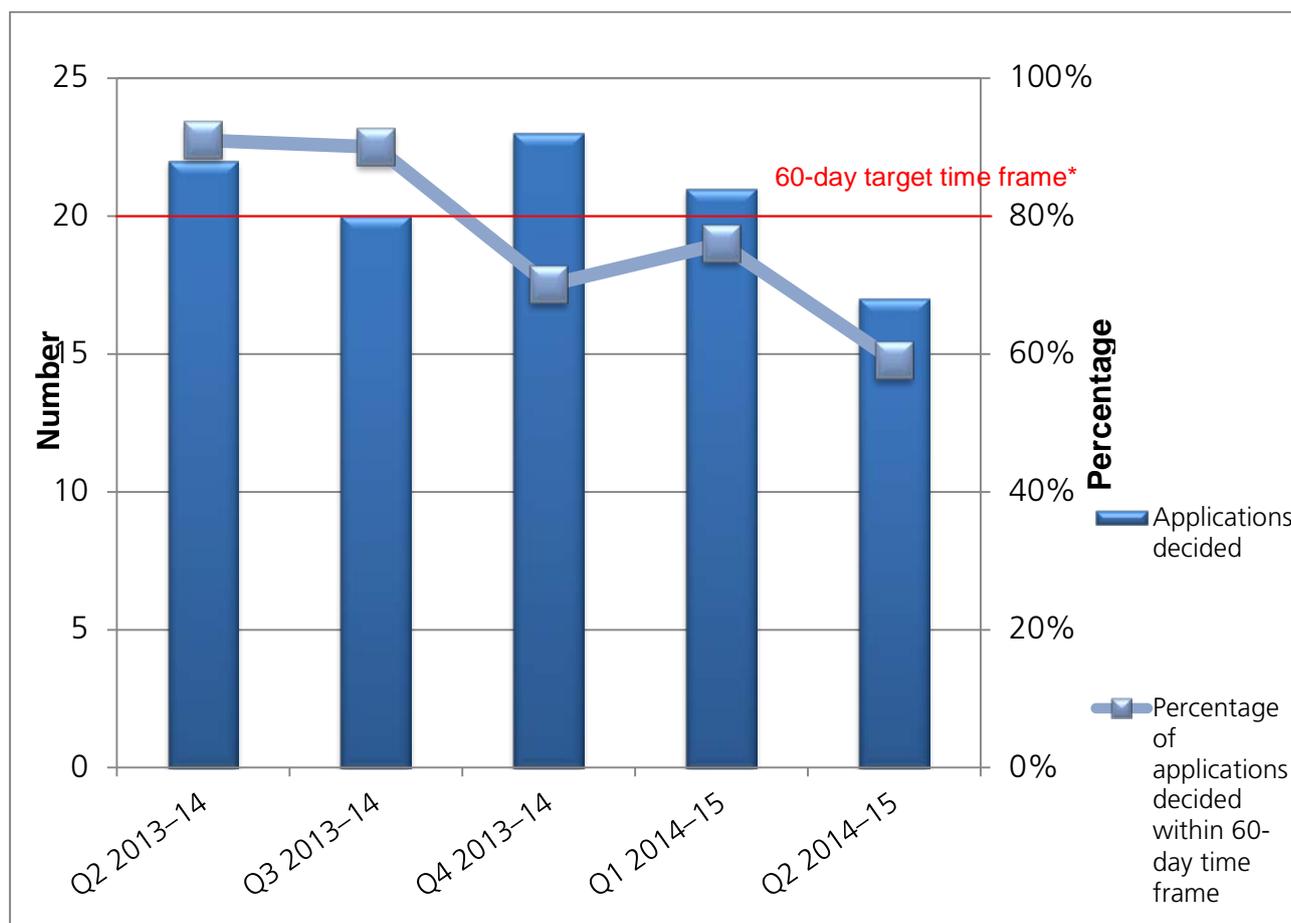
\*Target time frame = 80% of works approvals decided in 60 working days.

**Table 1.4 Other project licence applications**

	Q2 2013-14	Q3 2013-14	Q4 2013-14	Q1 2014-15	Q2 2014-15
Carried over from previous quarter	17	16	15	13	20
New	12	7	6	10	22
Granted	11	8	7	3	10
Awaiting fees or information from proponents	9	10	4	11	17
Refused	0	0	0	0	0
Withdrawn	1	0	1	0	0
Open at end of quarter	16	15	13	20	32
Percentage decided meeting target time frame*	64	88	57	67	90
Average time to decide (working days)	56	42	74	56	38

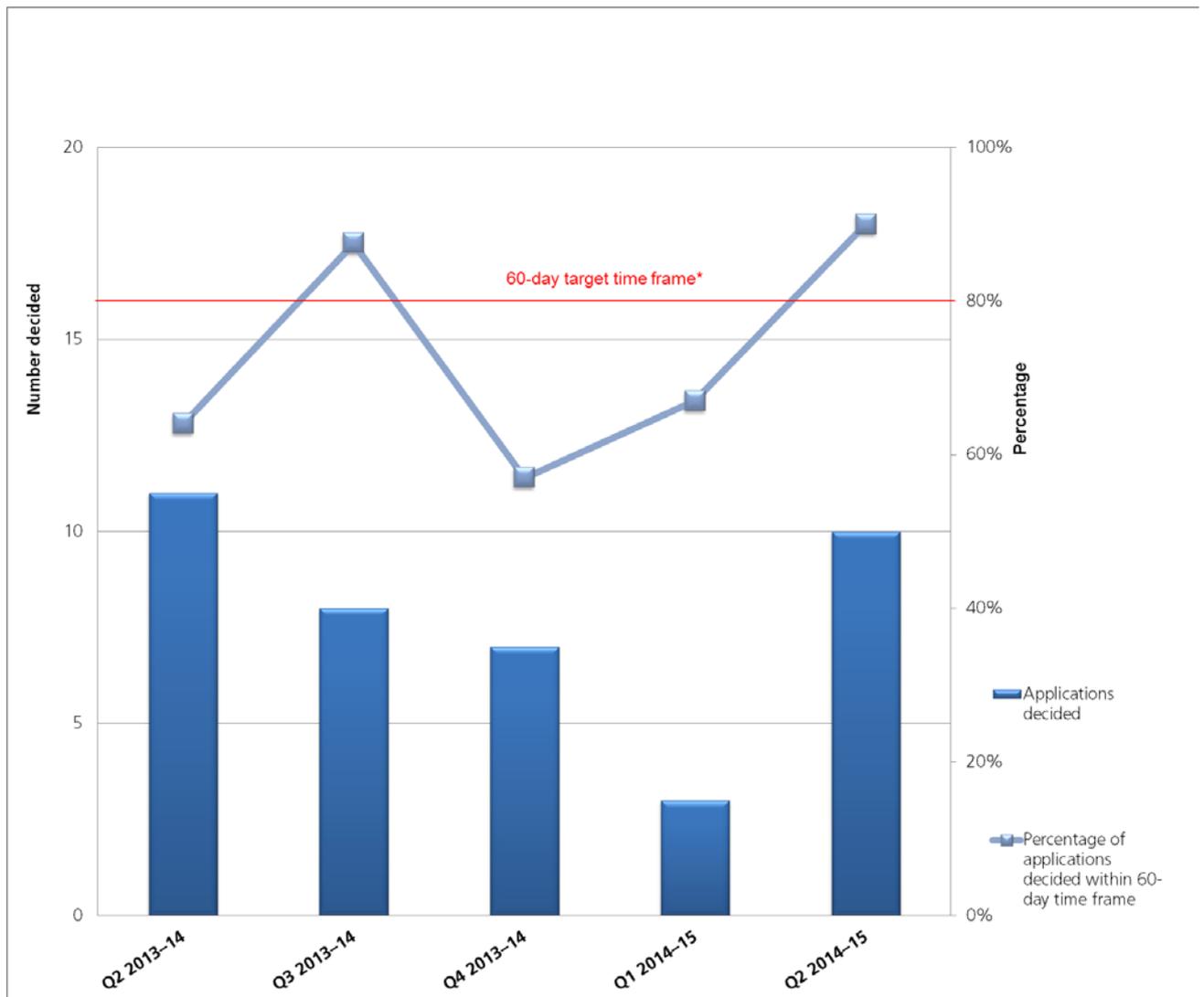
\*Target time frame = 80% of licences decided in 60 working days.

**Figure 1.3 Other project works approvals**



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

Figure 1.4 Other project licences



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

## 2. Native vegetation clearing permits

### 2.1 Introduction

#### Clearing provisions

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

Under s 20 of the EP Act the Chief Executive Officer (CEO) of DER 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).

#### Time frames

Target time frames are 80 per cent of applications to be decided within 60 calendar days of receipt, 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 day a decision is made, excluding the time in 'stop the clock'.

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

### 2.2 Performance

#### Delivery status

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

The number of applications steadily increased over the 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.

DER received 130 clearing permit applications in the second quarter of 2014–15.

There were 148 open applications at the end of the second quarter, which is comparable to the 145 open applications at the end of the previous quarter, and more than the 135 open applications at the same time last year.

During the second quarter 2014–15 DER made 126 decisions, which is more

than the previous quarter's 85 decisions, but fewer than the 140 decisions made at the same time last year.

The average time to make a decision was 52 days, which is less than the previous quarter's average of 60 days, and comparable to the 54-day average for the same time last year.

Of the 126 decisions made on applications in the second quarter of 2014–15, 107 clearing permits were granted within an average time of 54 days. Three applications for a clearing permit were refused. Of the remaining applications, two were declined because the applications were not valid and 14 were withdrawn.

DER's approach to decision-making is risk-based, having regard to the sensitivity of the environment,

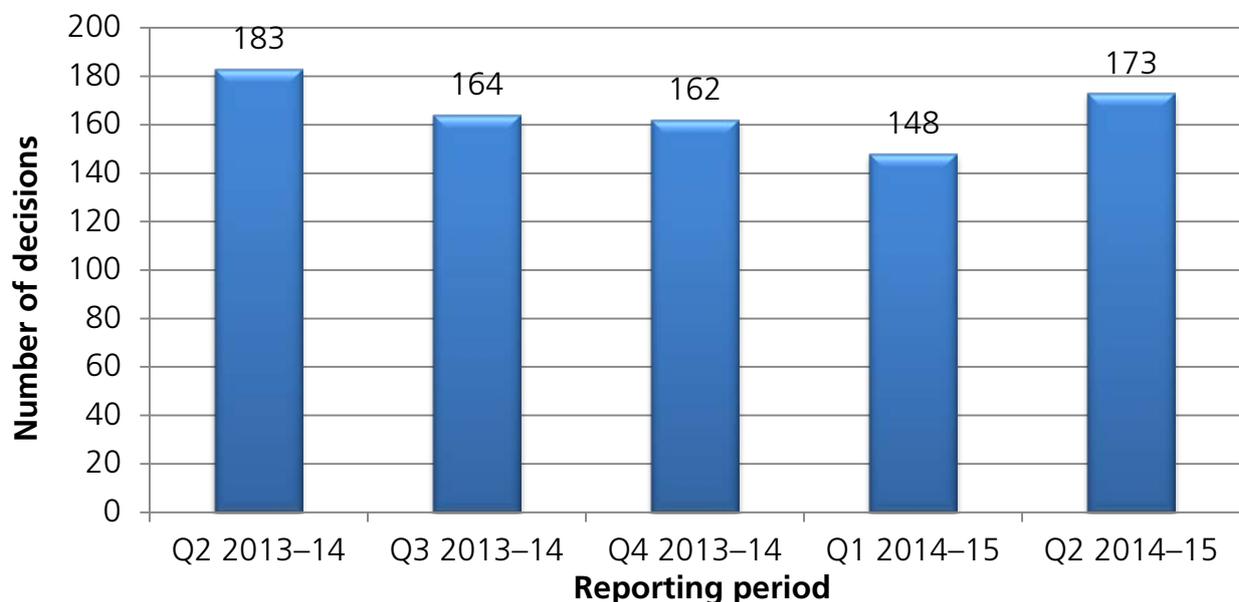
magnitude of impact/s and urgency of the clearing, ongoing monitoring of performance, and continual improvements to processes.

DER did not meet benchmark time frames this quarter, with 62 per cent of decisions made within 60 days, 96 per cent within 90 days and four per cent taking longer than 90 days.

Five applications did not meet the 90-day target time frame. Three applications were finalised within 100 days, and two within 110 days. These applications required modifications and further information during the assessment process.

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

**Figure 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 2 by DER and DMP by purpose**

Purpose	Number of decisions made Q2 2014–15				
	Less than or equal to 60 days	61 to 90 days	91 to 120 days	Greater than 120 days	Total
State development	37	10	1	1	49
Local government	31	12	2	0	45
Utilities	8	5	0	0	13
Agriculture/horticulture/forestry	10	12	1	0	23
Basic raw materials	3	2	1	0	6
Other development	27	9	1	0	37
<b>Total</b>	<b>116</b>	<b>50</b>	<b>6</b>	<b>1</b>	<b>173</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.

## 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 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**

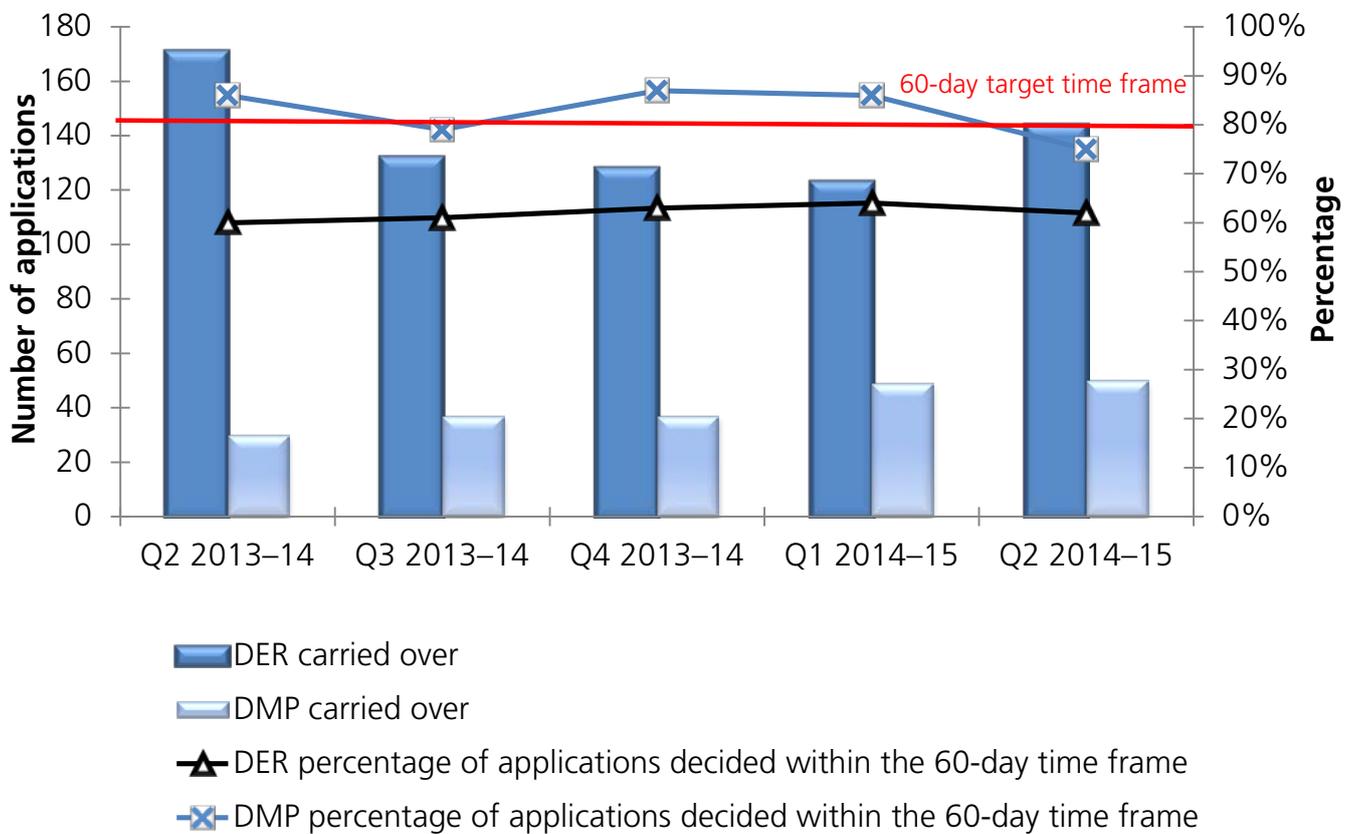
CATEGORY—DER	Q2 2013–14	Q3 2013–14	Q4 2013–14	Q1 2014–15	Q2 2014–15
No. of applications carried over from previous periods	171	132	128	123	144*
No. of applications received	104	115	103	107	130
No. of decisions that were subject to 'stop the clock'	61	73	53	53	62
Average time in 'stop the clock' for decisions in days	111	126	131	158	70
Average time for decision in days (excluding time in 'stop the clock')	54	52	38	60	52
No. decisions on applications	140	117	107	85	126
No. of outstanding applications at end of quarter	135	130	124	145	148
Percentage of applications that were finalised within benchmark time frame					
60 days (80% of applications finalised)	60	61	63	64	62
90 days (100% of applications finalised)	97	94	94	93	96
>90 days	3	6	6	7	4

\*This figure is not the same as the outstanding applications at the end of the previous quarter due to second quarter data correction.

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

CATEGORY—DMP	Q2 2013–14	Q3 2013–14	Q4 2013–14	Q1 2014–15	Q2 2014–15
No. of applications carried over from previous periods	30	37	37	49	50*
No. of applications received	44	47	67	63	39
No. of decisions that were subject to 'stop the clock'	26	25	41	38	30
Average time in 'stop the clock' for decisions in days	34	16	32	24	44
Average time for decision in days (excluding time in 'stop the clock')	48	39	54	47	69
No. decisions on applications	43	47	55	63	47
No. of outstanding applications at end of quarter	31	37	49	49	42
Percentage of applications that were finalised within benchmark time frame					
60 days (80% of applications finalised)	86	79	87	86	75
90 days (100% of applications finalised)	98	100	100	97	96
>90 days	2	0	0	3	4

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

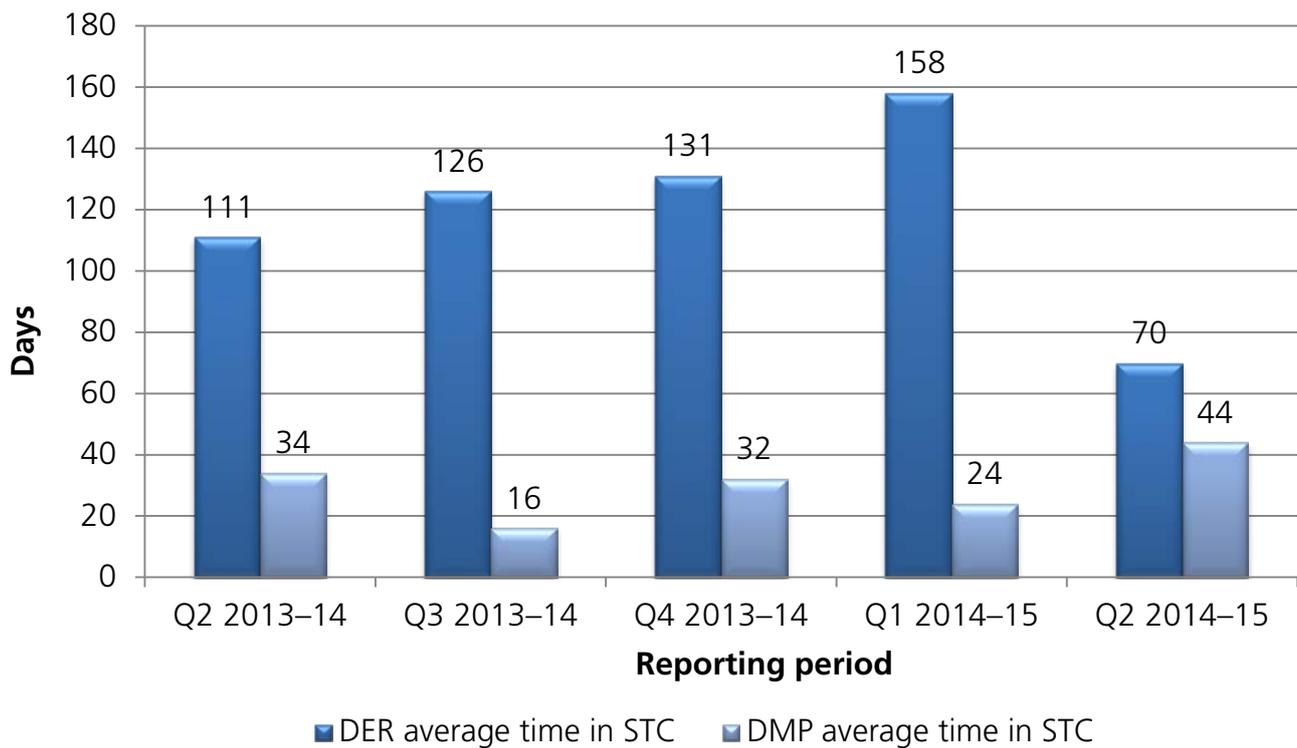


**Table 2.5 Decisions subject to 'stop the clock'\***

'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	44	62	70	92	61

\* 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	28	33	49	38	77	36
Decision pending	1	4	19	123	20	117
Referred to EPA	2	184	3	49	5	103
Total/average	31	42	71	61	102	55

\* 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 Introduction

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 31 December 2014, DER had received 3,544 reports of known or suspected contaminated sites (also referred to as Form 1s) since the CS Act commenced. Of the total number of reports, 56 per cent were received over the three-month period 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 the contamination poses to human health and the environment.

### 3.2 Performance

Thirty-three sites were reported in the second quarter of 2014–15 (see Table 3.1 and Figure 3.1).

By 31 December 2014, a total of 2,888 sites had been classified (made up of 19,767 individual lots or land parcels) under the CS Act (see Figure 3.2).

A total of 88 sites was classified in the second 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 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 who 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 2013–14	Q3 2013–14	Q4 2013–14	Q1 2014–15	Q2 2014–15
Carried over from previous quarter	18	23	9	11	14
New form 1s received	49	31	31	50	33
Processed within statutory 45 days	44	45	29	47	33
Open at end of quarter*	23	9	11	14	13
Exceeding statutory 45 days	0	0	0	0	1

\* 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.

### 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 15 MARs in the second quarter of 2014–15 and 12 MARs were processed. In addition, two MARs carried forward from the previous reporting period were processed, bringing the total number of MARs processed within this period to 14.

The average processing time for MARs reviewed by DER only was 20 days, within DER's 21-day target. The average processing time for all MARs completed during this reporting period was 60 days, exceeding DER's 21-day target (three weeks).

Two MARs completed within this reporting period required extended time frames for review and consultation with other agencies due to specific technical issues at each site.

The average processing time for all MARs, excluding the two sites requiring extended review periods, was 36 days.

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

**Table 3.2 MAR review performance by quarter**

	Q2 2013–14	Q3 2013–14	Q4 2013–14	Q1 2014–15	Q2 2014–15
MARs received	15	6	17	18	15
MAR reviews completed	11	9	13	23	14
MARs carried forward	9	6	8*	3	4
Average processing time (days)	36	31	31	32	60
MARs processed by DER only	4	6	6	13	5
Average time for MARs processed by DER only (days)	15	26	17	22	20

\*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.

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

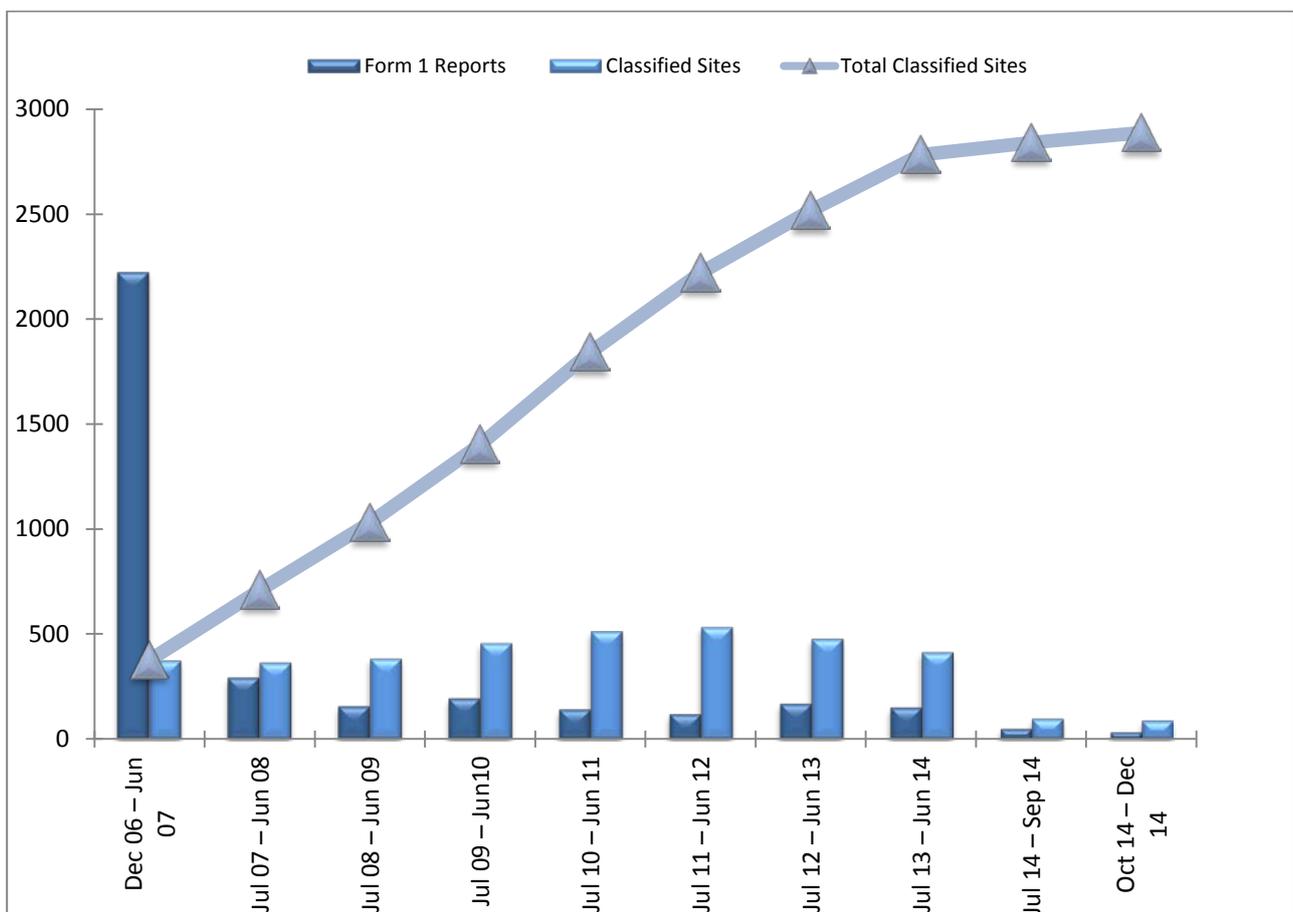
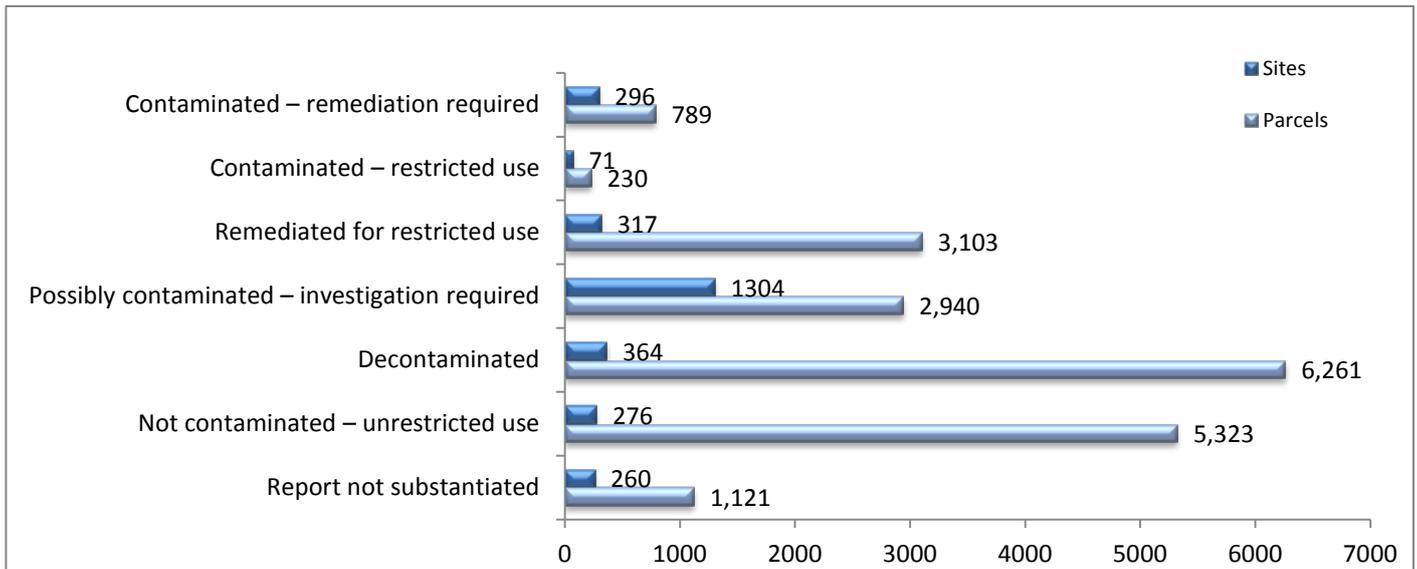


Figure 3.1 shows the number of sites reported and classified each financial year until June 2014, and quarterly since July 2014, as well as the steady increase in the total number of classified sites at the end of each period.

**Figure 3.2 Distribution at 31 December 2014 of classified sites and parcels across the seven classification categories**



## 4. Environmental compliance

### 4.1 Introduction

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

There have been some changes to the 2014–15 program, 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 Program**

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.

### 4.2 Performance

A total of 971 proactive inspections are planned for the 2014–15 financial year.

Progress to date against this target is outlined in Figure 4.1.

**Figure 4.1 Inspections completed to Quarter 2 2014–15**



## Progress report—Annual Compliance Program 2014–15

All compliance programs have commenced, with 43 per cent of the targeted inspections completed to date. More information on individual programs is outlined below.

### 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 is planned for the financial year.

During the second quarter of 2014–15, DER completed 92 (28 per cent) of planned inspections; 75 relating to the prescribed premises program and 17 to the waste compliance program.

### Waste compliance program

A dedicated waste compliance team was established within the Department to focus on enhancing environmental performance at landfills and associated waste facilities.

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

Three hundred and fifty-four inspections are planned for waste compliance.

Ninety-five inspections (27 per cent) were completed during the second quarter of 2014–15.

### Controlled waste regulation

The purpose of the *Environmental Protection (Controlled Waste) Regulations 2004* (CW Regulations) is the safe and authorised transportation of controlled waste on public roads in Western Australia.

The CW Regulations place obligations on controlled waste generators, carriers, drivers, and disposal sites. DER is responsible for assessing applications of new controlled waste carrier, vehicle and driver licences.

In the second quarter of 2014–15, 100 per cent of the 145 applications received were 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 disposal sites in accordance with licence conditions and the general provisions of the CW Regulations.

During the second quarter 2014–15, DER completed 13 per cent of planned controlled waste inspections.

**Table 4.2 Controlled waste compliance program**

	Target	Actual	% Achieved
General inspections	100	78	78
Controlled waste disposal sites	40	8	20
Targeted—controlled waste industry	112	6	5
Total	252	92	36

### Industry sector compliance program

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

**Table 4.3. Industry sector compliance program**

	Target	Actual	% Achieved
Category 67A compost manufacturing and soil blending compliance program <sup>1</sup>	28	28	100
Ports compliance program	26	10	38
Abrasive blasting and metal coating regulations compliance program	Industry consultation		
Used tyre regulation framework	This program is proposed to commence in the third quarter of 2014–15		
Total	54	38	70

<sup>1</sup> One composting premises was removed from the program due to ongoing investigations.

### **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 managed by the Department 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 28 inspections (100 per cent) undertaken in the first quarter of 2014–15.

### **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 progressed in the second quarter of 2014–15 with eight inspections completed.

### ***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, and industry consultation for the guidelines will be undertaken in the third quarter of 2014–15.

### ***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 is proposed to commence in the third quarter of 2014–15.

### **Native vegetation compliance program**

The native vegetation compliance program consists 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 are planned under the three compliance streams.

The offsets program was completed in the second quarter of 2014–15. Four site inspections were undertaken during the quarter, with a total of 16 completed since the program commenced in the first quarter of 2014–15.

The 2014–15 VCN program commenced in the second quarter and two desk top assessments have been conducted.

### **Other compliance activities**

#### **Statutory submissions**

Two hundred and seventy-seven Annual Environmental Reports (AERs) and Annual Audit Compliance Reports (AACRs) were due to be submitted to DER during the second quarter of 2014–15.

Two hundred and fifty-eight AERs and AACRs (93 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.

No environmental scans were undertaken during the second quarter of 2014–15.

## 5. Environmental enforcement

### 5.1 Introduction

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

The statistical data appearing in this section are obtained from DER's Incident and Complaint Management System (ICMS), a tool designed to

record complaints and incidents, and provide a case management framework through which investigations are conducted and enforcement outcomes are decided.

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

### 5.2 Performance

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

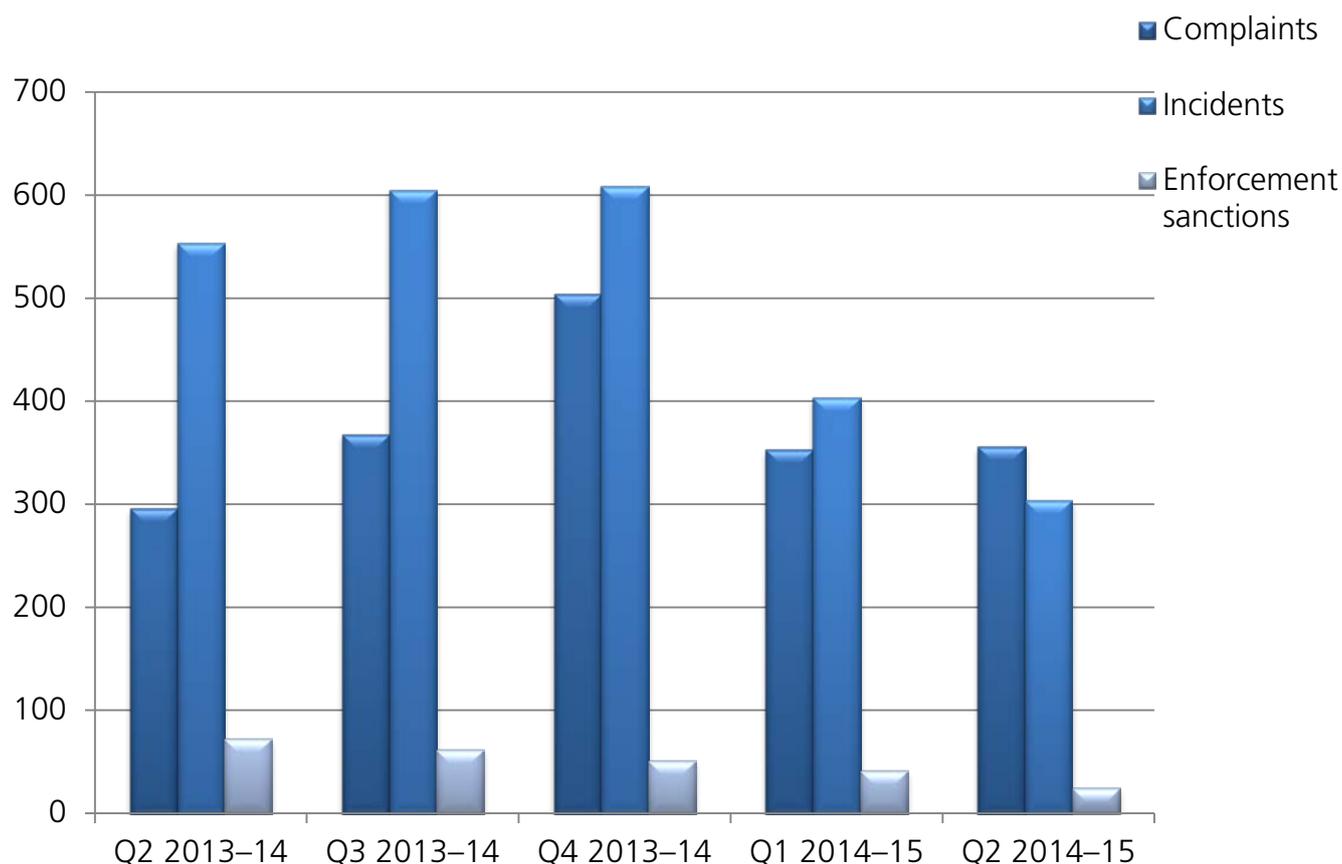
Region	Q2 2013–14		Q3 2013–14		Q4 2013–14		Q1 2014–15		Q2 2014–15	
	Complaint	Incident								
Goldfields	3	55	9	102	8	70	5	30	2	42
Greater Swan	177	190	236	157	337	95	203	84	209	90
Indian Ocean Territories (IOT)	1	6	1	7	0	5	0	2	1	2
Midwest	8	40	4	30	7	16	4	21	11	30
North West	7	83	12	78	24	211	32	24	17	47
Perth	81	125	84	125	112	164	98	216	106	68
South Coast**	19	54	22	106	16	48	11	26	10	25
<b>Total</b>	<b>296</b>	<b>553</b>	<b>368</b>	<b>605</b>	<b>504</b>	<b>609</b>	<b>353</b>	<b>403</b>	<b>356</b>	<b>304</b>

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

<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 into the new regional boundaries.



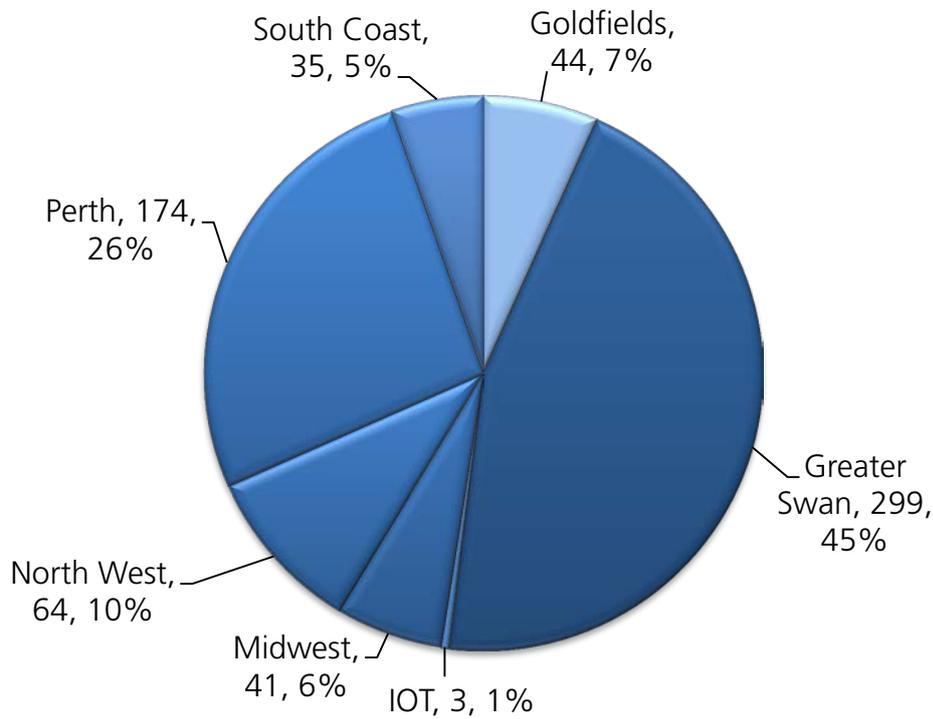
**Table 5.2 Environmental complaints/incidents reported by sub-category, Q2 2014-15**

Category	Complaints/Incidents	Enforcement actions undertaken
Clearing of native vegetation	43	51
Compliance	113	44
Clearing permit	1	
Industry licence	80	
Industry registration	1	
Proactive compliance	7	
Statutory notice	0	
Works approval	2	
Unspecified	22	
Contaminated sites	1	1
Controlled waste	14	3
Disposal site	0	
Unauthorised disposal	3	
Unauthorised transport	4	
Waste generator	5	
Unspecified	2	
EP licence breach	75	42
Condition Breach – Late Report	16	

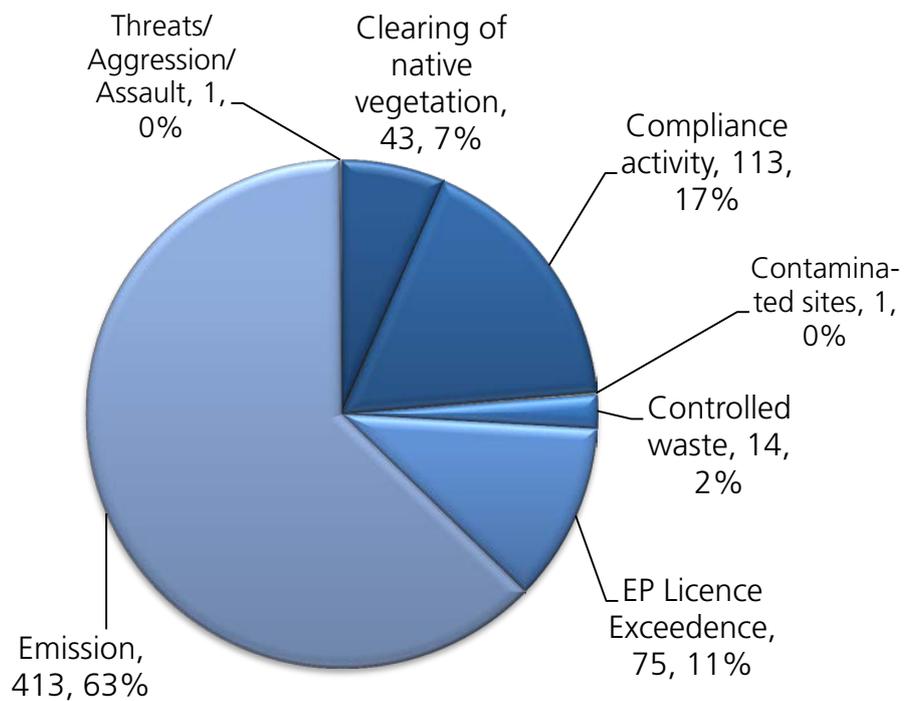
Category	Complaints/Incidents	Enforcement actions undertaken
Condition Breach – Licence Limit	10	
Condition Breach – Reporting Condition	17	
Condition Breach – other	16	
Unspecified	16	
Emission	413	148
Air quality	7	
Dumping waste	39	
Dust	58	
Hazardous material	19	
Light	3	
Liquid waste	61	
Noise	47	
Odour	88	
Pesticide	1	
Smoke	7	
Solid waste	3	
Unauthorised discharge	54	
Unspecified	26	
Landfill levy	0	0
Non-payment of levy	0	
Threat/Aggression/Assault <sup>1</sup>	1	0
Risk rating: Low	1	
Other	0	0
TOTAL	660	289

<sup>1</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 2014–15**



**Figure 5.3 Complaints and incidents as percentages, Q2 2014–15**



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

Type of action	Q2 2013–14	Q3 2013–14	Q4 2013–14	Q1 2014–15	Q2 2014–15
Environmental field report (EFR) <sup>1</sup>	42	37	19	0	3
Letter of warning <sup>2</sup>	12	11	25	32	16
Infringement notices <sup>3</sup>	5	4	0	6	3
Environmental protection notice (EPN) <sup>4</sup>	1	0	0	0	0
Stop work order <sup>5</sup>	0	0	0	0	0
Statutory direction/notice <sup>6</sup>	0	2	0	0	1
Modified penalty <sup>7</sup>	0	0	0	0	0
<b>Prosecutions</b>					
Prosecutions commenced <sup>8</sup>	4	3	0	0	2
Pending prosecutions	10	9	11	9	8
Current prosecutions before the court	9	6	4	3	3

<sup>1</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>2</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>3</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>4</sup> An environmental protection notice is a statutory notice issued pursuant to section 65 of the *Environmental Protection Act 1986*.

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

<sup>6</sup> A 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>7</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>8</sup> A DER prosecution action commences when a complaint is made (or sworn) that an entity has committed an offence under the legislation.

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

Type of action	Number of actions undertaken by quarter <sup>1</sup>			
	Q2 2011–12	Q2 2012–13	Q2 2013–14	Q2 2014–15
Licence review/amendment <sup>2</sup>	2	4	2	7
Prescribed action <sup>3</sup>	6	2	0	0
EFR	157	139	42	3
Letter of warning	24	61	12	16
Infringement notices	37	32	5	3
EPN	1	2	1	0
Stop work order	0	0	0	0
Statutory direction/notice	4	0	0	1
Modified penalty	0	2	0	0
Prosecution	4	2	4	2

**Table 5.6 Native vegetation regulation activity, Q2 2014–15**

Activity	Number
Vegetation conservation notice (VCN) <sup>4</sup>	0 (46 Active)
Clearing applications	130
Clearing approvals	107
Letters of warning	4
Prosecutions	0

<sup>1</sup> Quarters 2 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 2 figures for 2013–14 do not include actions/sanctions undertaken by SRT.

<sup>2</sup> DER may amend or revoke an existing licence for the conservation, preservation, protection, enhancement and management of the environment.

<sup>3</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>4</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

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## 6.2 Quarterly reports

### Approvals summary

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### Works approvals and licences

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### Environmental compliance

Senior Manager Environmental Compliance

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### Native vegetation clearing permits

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