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Department of **Environment Regulation**

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

Commencing this quarter, DER is reporting on its performance on deciding applications to amend works approvals and licences, and renewals, transfers, surrender and revocation of works approvals and licences.

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 [Guidance Statement: Regulatory principles](#) and the recently published [Guidance Statement: Setting Conditions](#).

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 works approval and licence applications since the first quarter of 2006. A 'decision made' means an application for a works approval or licence has been granted or refused.

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

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

Works approvals

During the first quarter of 2015–16, 19 new works approval applications were received, compared with 18, 20, and 26 in the preceding quarters. Twenty-one works approvals were decided, 11 more than the number decided in the previous quarter.

DER decided 71 per cent of new works approval applications in the first quarter of 2015–16 within the target time frame. This is less than the 80 per cent achieved in the previous two quarters. The average processing time for works approval applications during the first quarter of 2015–16 was 50 days, a decrease from the previous quarter. There was also a substantial increase in the number of decisions made on works approval applications this quarter.

A targeted risk-based program was implemented in Q4 2014–15 to reduce the number of open applications, particularly those subject to protracted assessment, and to ensure the timely assessment of all applications is appropriately managed in future. Q1 2015–16 statistics include the grant of six works approvals applications which had protracted assessments. It is expected that performance will improve as the implementation of this approach progresses.

Licences

Seven new licence applications were received in the first quarter of 2015–16, a slight increase from the previous quarter. Five licenses were determined, which is consistent with the number decided in the previous quarter.

DER decided 100 per cent of new licence applications in the first quarter 2015–16 within the target time frame. This is an improvement on the preceding quarter, when 40 per cent was achieved. The average decision time for licence applications has improved from Q4 2014–15, decreasing from 58 to 44 days to make a decision.

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

Table 1.1 Major resources projects works approval applications

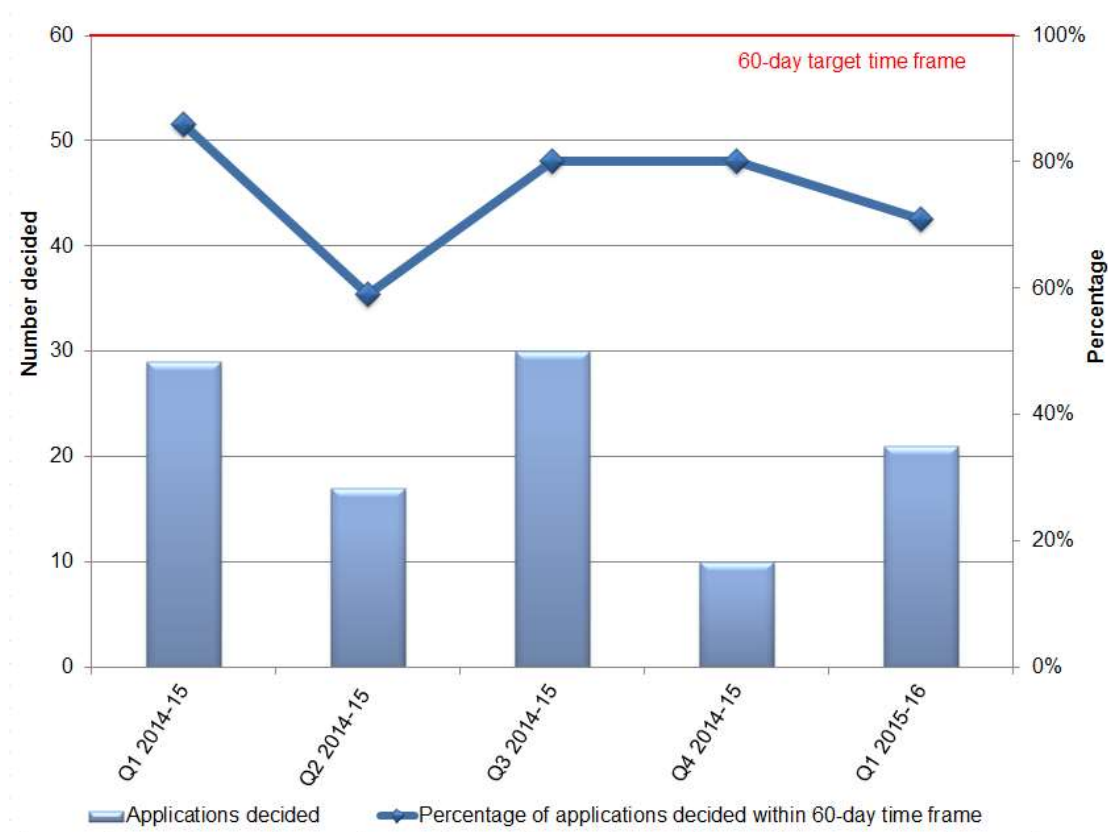
	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16
Works approval applications					
No. of applications carried over from previous periods	35	27	36	24	42*
No. of applications received	22	26	20	18	19
No. of applications granted	29	17	30	10	21
No. of applications refused	0	0	0	0	0
No. of applications withdrawn ¹	1	0	2	2	0
No. of applications declined ²	n/a	n/a	n/a	n/a	3
No. of open applications as of end of quarter	27	36	24	30	37
Percentage of applications that were finalised within timeframe of 60 business days (target = 100% of applications finalised)	86%	59%	80%	80%	71%
Average time for decision (business days)	50	57	49	53	50

NOTES

1 Withdrawn means the applicant withdrew the application.

2 Declined means the application did not meet the CEO's requirements to accept.

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

Figure 1.1 Summary of major resources projects works approvals.

Table 1.2 Major resources projects licence applications

	Q1 2014-15	Q2 2014-15	Q3 2014-15	Q4 2014-15	Q1 2015-16
Licence applications					
No. of applications carried over from previous periods	17	14	10	11	14*
No. of applications received	8	3	4	4	7
No. of applications granted	10	5	2	5	5
No. of applications refused	0	0	0	0	0
No. of applications withdrawn ¹	1	2	1	0	2
No. of applications declined ²	n/a	n/a	n/a	n/a	0
No. of open applications as of end of quarter	14	10	11	10	14
Percentage of applications that were finalised within timeframe of 60 business days (target = 100% of applications finalised)	100%	100%	100%	40%	100%
Average time for decision (business days)	48	43	43	58	44

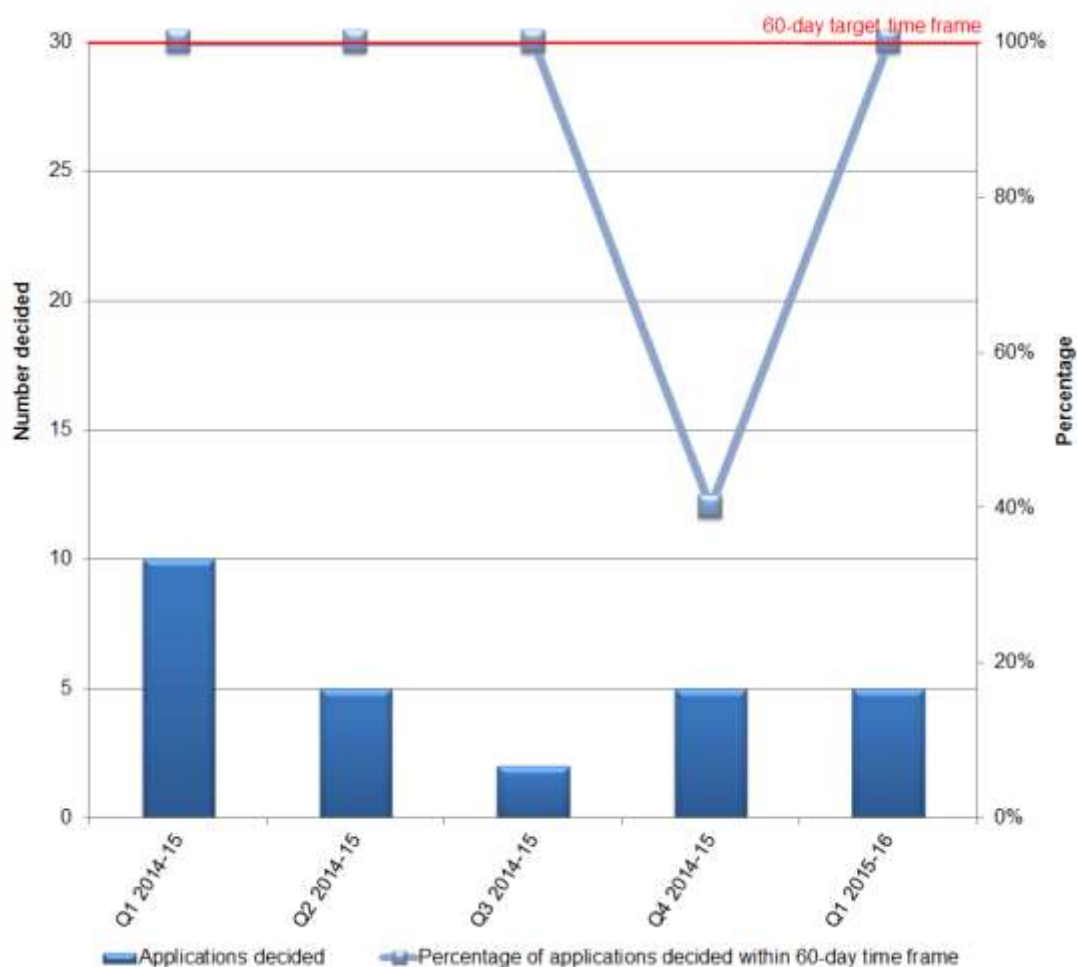
NOTES

1 Withdrawn means the applicant withdrew the application.

2 Declined means the application did not meet the CEO's requirements to accept.

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

Figure 1.2 Summary of major resources projects licence applications



1.2 Other projects

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

Works approvals

Nineteen other project works approval applications were decided by DER in the first quarter of 2015–16, an increase from the previous quarter where 13 applications were decided. The percentage of works approvals decided within the target time frame decreased from 69 per cent to 31 per cent.

This resulted in an increased average decision time for other project works approvals during this quarter to 97 days, compared to 71 days in the previous quarter.

As outlined in the Major resources projects section, a targeted risk-based program was implemented in Q4 2014–15 to reduce the number of open applications and to ensure the timely assessment of all applications are appropriately managed in future. The figures for Q1 2015–16 include the grant of seven works approval applications which had protracted assessments. It is expected that performance will improve as the implementation of this approach progresses.

Licences

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 first quarter 2015–16. This is consistent with the previous quarter.

The average time to decide other project licence applications increased during this quarter to 41 days, compared to 37 days in the previous quarter. It is also noted that there was an increase in the number of applications received, from seven in Q4 to 17 in Q1.

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

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

Table 1.3 Other projects works approval applications

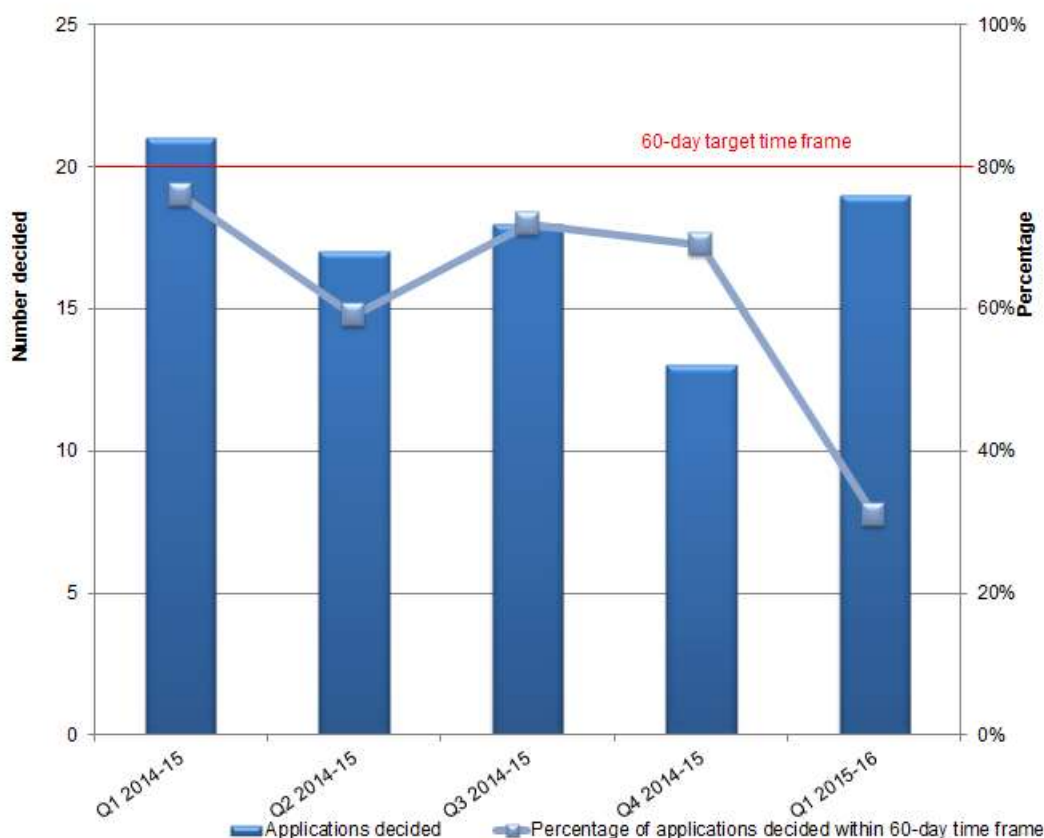
	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16
Works approval applications					
No. of applications carried over from previous periods	43	43	36	34	53*
No. of applications received	24	14	18	16	35
No. of applications granted	21	17	18	13	19
No. of applications refused	0	0	0	0	0
No. of applications withdrawn ¹	3	4	2	2	7
No. of applications declined ²	n/a	n/a	n/a	n/a	8
No. of open applications as of end of quarter	43	36	34	35	54
Percentage of applications that were finalised within timeframe of 60 business days (target = 80% of applications finalised)	76%	59%	72%	69%	31%
Average time for decision (business days)	49	64	48	71	97

NOTES

1 Withdrawn means the applicant withdrew the application

2 Declined means the application did not meet the CEO's requirements to accept.

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

Figure 1.3 Summary of other projects works approvals

Table 1.4 Other projects licence applications

	Q1 2014-15	Q2 2014-15	Q3 2014-15	Q4 2014-15	Q1 2015-16
Licence applications					
No. of applications carried over from previous periods	13	20	32	20	28*
No. of applications received	10	22	9	7	17
No. of applications granted	3	10	19	7	7
No. of applications refused	0	0	0	0	0
No. of applications withdrawn ¹	0	0	2	1	3
No. of applications declined ²	n/a	n/a	n/a	n/a	1
No. of open applications as of end of quarter	20	32	20	19	34
Percentage of applications that were finalised within timeframe of 60 business days (target = 80% of applications finalised)	67%	90%	84%	71%	71%
Average time for decision (business days)	56	38	49	37	41

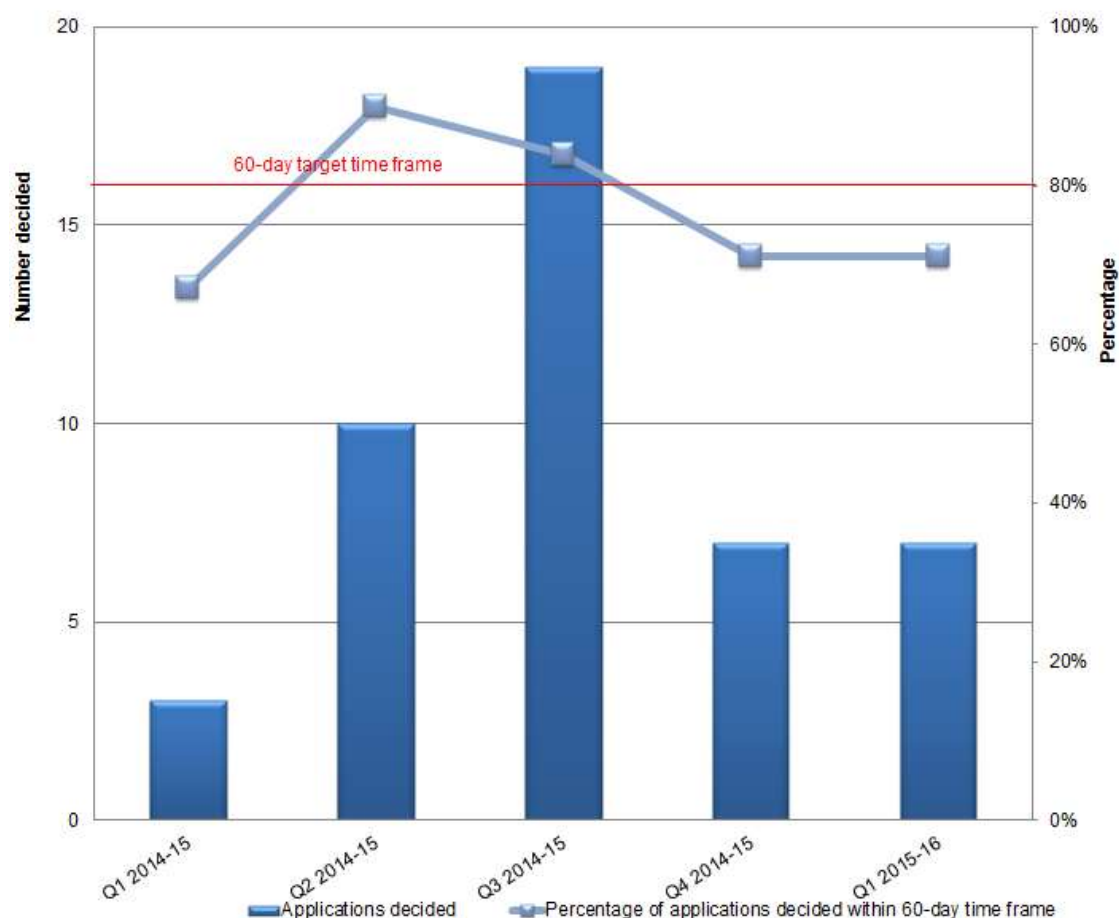
NOTES

1 Withdrawn means the applicant withdrew the application

2 Declined means the application did not meet the CEO's requirements to accept.

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

Figure 1.4 Summary of other projects licence applications



1.3 Amendments

Performance on deciding applications to amend works approvals and licences has historically not been tracked and therefore not reported. Until Q1 2015–16, DER has not had a target timeframe to determine these applications.

In reviewing all applications for amendment, DER determined that it had a total of 124 applications at the start of Q1 2015–16, a large number of which were found to be dormant for a significant period of time, or have had protracted assessments. This includes applications to amend works approvals and licences, for both Major Resource Projects and also Other Projects.

Consistent with DER’s Guidance Statement: *Regulatory Principles*, to ensure there is not undue delay and there is transparency, DER has set a target to decide 100 per cent of all applications to amend works approval and license applications within 40 working days from Q1 2015–16. DER will track and report on its performance in meeting these timeframes. This will ensure that DER delivers improved customer service, greater transparency and certainty for industry in the management of their applications for amendment.

To address the current backlog of applications, DER is implementing a targeted program to reduce the number of open applications, particularly those subject to protracted assessment, and to ensure the timely assessment of all applications in the future.

Improved business systems to track and monitor performance are in development stages, and therefore it is possible that data provided may require some correction on Q2.

The quarterly figures for works approval and licence amendment applications are summarised in Table 1.5.

During the first quarter 2015–16, eight works approval amendment applications were received and 10 were decided. Sixty per cent of these applications were decided within the target time frame. The average decision time for works approval amendment applications was 62 days.

Sixty eight licence amendment applications were received by DER in the first quarter of 2015–16 and 38 were decided. DER decided 29 per cent of licence amendment applications in the first quarter 2015–16 within the target time frame. The average decision time for licence amendment applications was 130 days.

Table 1.5: Summary of amendment applications

	Q1 2015–16
Works approval amendment applications¹	
No. of applications carried over from previous periods	10
No. of applications received	8
No. of applications determined	10
No. of open applications as of end of quarter	8
Percentage of applications that were finalised within timeframe of 40 business days (target = 100% of applications finalised)	60
Average time for decision (business days)	62
Licence amendment applications¹	
No. of applications carried over from previous periods	114
No. of applications received	68
No. of applications determined	38
No. of open applications as of end of quarter	144
Percentage of applications that were finalised within timeframe of 40 business days (target = 100% of applications finalised)	29
Average time for decision (business days)	130

¹ The quality of the data used to report on performance for Q1 may not accurately represent the work that is outstanding, however this will be corrected in Q2.

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

1.4 Licence renewals

Performance reporting on applications for licence renewals also began for the first time this quarter. For licence renewal applications, DER has set a target to decide 100 per cent within 60 working days. The quarterly figures for licence renewal applications are summarised in Tables 1.6.

The quarterly figures for licence renewal applications are summarised in Table 1.6. During the first quarter 2015–16, 65 new licence renewal applications were received and 39 were decided. In this quarter DER decided 94 per cent of licence renewal applications within the target time frame. The average decision time for licence renewal applications was 46 days.

Table 1.6: Summary of licence renewals

	Q1 2015–16
Licence renewal applications¹	
No. of applications carried over from previous periods	26
No. of applications received	65
No. of applications determined	39
No. of open applications as of end of quarter	56
Percentage of applications that were finalised within timeframe of 60 business days (target = 100% of applications finalised)	94%
Average time for decision (business days)	46

1. The quality of the data used to report on performance for Q1 may not accurately represent the work that is outstanding, however this will be corrected in Q2.

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

1.5 Transfers and revoke/transfer

During Q1 2015–16 DER set a target to decide 100 per cent of transfer and revoke/surrender applications within 60 working days. Due to the implementation of the target within Q1 2015–16, tracking of the number of business days for transfers and revoke/surrenders applications received did not occur during Q1 2015–16. Only the number that was determined was recorded. The quarterly figures for transfer and revoke/surrender applications are summarised in Tables 1.7.

As shown in Table 1.7, 0 applications to transfer or revoke/surrender works approvals were determined. 4 licence transfer applications were determined within Q1 2015–16. 4 applications to revoke/surrender licences were also determined.

Table 1.7: Summary of transfer and revoke/surrender applications

	Q1 2015–16
Surrender/revoke/transfer works approval applications¹	
No. of transfer applications determined	0
No. of surrender/revocation applications determined	0
Surrender/revoke/transfer licence applications¹	
No. of transfer applications determined	4
No. of surrender/revocation applications determined	4

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

2. Native vegetation clearing permits

2.1 Clearing provisions

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

Under s 20 of the EP Act, the Chief Executive Officer (CEO) of DER has delegated powers relating to clearing applications to 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 129 clearing permit applications in the first quarter of 2015–16.

There were 201 open applications at the end of the first quarter, which is more than the 169 open applications at the end of the previous quarter, and more than the 145 open applications at the same time last year.

During the first quarter 2015–16, DER made 97 decisions, which is more than the previous quarter's 85 decisions and the 85 decisions made at the same time last year.

The average time to make a decision was 58 days, which is comparable to the previous quarter's average of 57 days and the 60-day average for the same time last year.

Of the 97 decisions made on applications in the first quarter of 2015–16, 68 clearing permits were granted within an average time of 66 days. Four clearing permits were surrendered. One application for a clearing permit was declined because the application was not valid and 19 were withdrawn. Five applications for a clearing permit were refused.

The 129 applications received this quarter is more than the 101 applications received in the previous quarter and the 107 applications received the same time last year. There was an increase in the number of decisions made (97 compared to 85 in the third quarter), leading to an overall increase in the number of outstanding applications to be finalised (201 compared to 169 in the previous quarter).

DER notes that there has been a growing number of applications carried over each quarter and its performance with clearing permit applications is generally declining. To address this, it is implementing a targeted program to address the increasing backlog of applications. DER must also maintain 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.

DER continues to review its processes to identify further opportunity for improvement, such as implementing 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

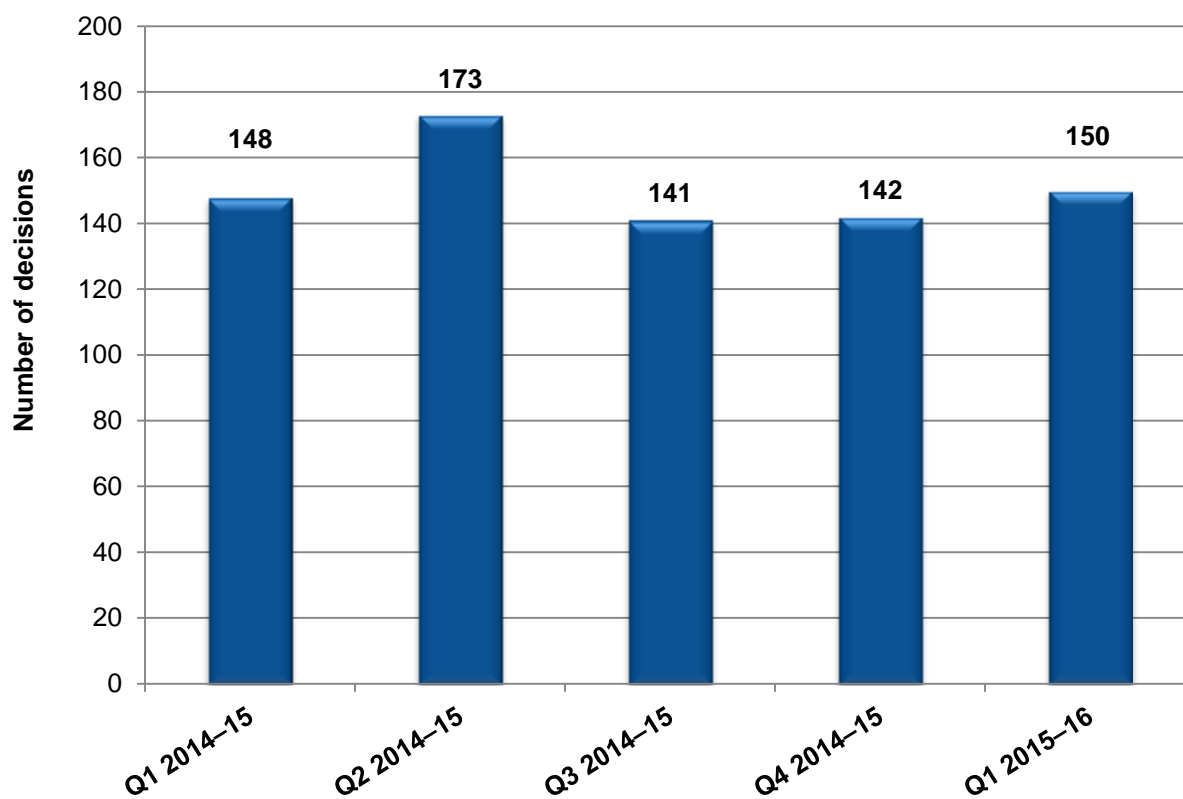


Table 2.1 Number of decisions made in Quarter 1 by DER and DMP by purpose

Purpose	Number of decisions made in Q1 2015-16				
	Less than or equal to 60 days	61 to 90 days	91 to 120 days	Greater than 120 days	Total
State development	46	3	0	0	49
Local government	19	7	0	2	28
Utilities	7	1	1	0	9
Agriculture/horticulture/forestry	2	10	4	0	16
Basic raw materials	3	0	2	0	5
Other development	28	9	5	1	43
Total	105	30	12	3	150

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	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16
No. of applications carried over from previous periods	123	144	148	153	169
No. of applications received	107	130	98	101	129
No. of decisions that were subject to ‘stop the clock’	53	62	38	32	60
Average time in ‘stop the clock’ for decisions in days	158	70	107	59	67
Average time for decisions in days (excluding time in ‘stop the clock’)	60	52	54	57	58
No. of decisions on applications	85	126	93	85	97
No. of outstanding applications at end of quarter	145	148	153	169	201
Percentage of applications that were finalised within time frames					
60 days (target = 80% of applications finalised)	64	62	59	53	57
90 days (target = 100% of all applications finalised)	93	96	86	85	86
Greater than 90 days	7	4	14	15	14

Table 2.4 Time frame data for DMP applications/decisions

Category—DMP	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16
No. of applications carried over from previous periods	49	50	42	51	41
No. of applications received	63	39	57	47	59
No. of decisions that were subject to ‘stop the clock’	38	30	21	30	22
Average time in ‘stop the clock’ for decisions in days	24	44	67	14	8
Average time for decisions in days (excluding time in ‘stop the clock’)	47	69	22	50	48
No. of decisions on applications	63	47	48	57	53
No. of outstanding applications at end of quarter	49	42	51	41	47
Percentage of applications that were finalised within time frames					
60 days (target = 80% of applications finalised)	86	75	96	91	94
90 days (target = 100% of all applications finalised)	97	96	100	96	98
Greater than 90 days	3	4	0	4	2

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

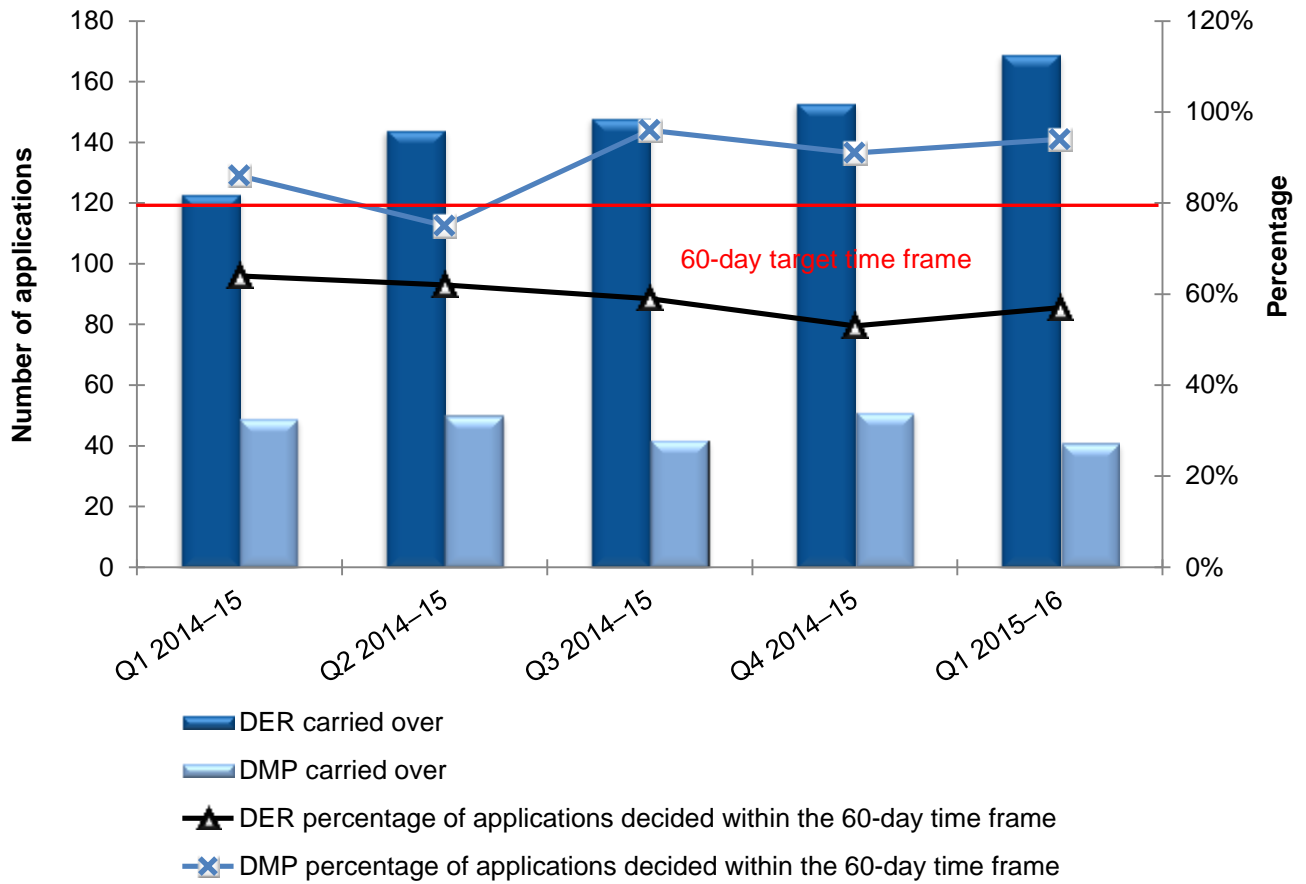
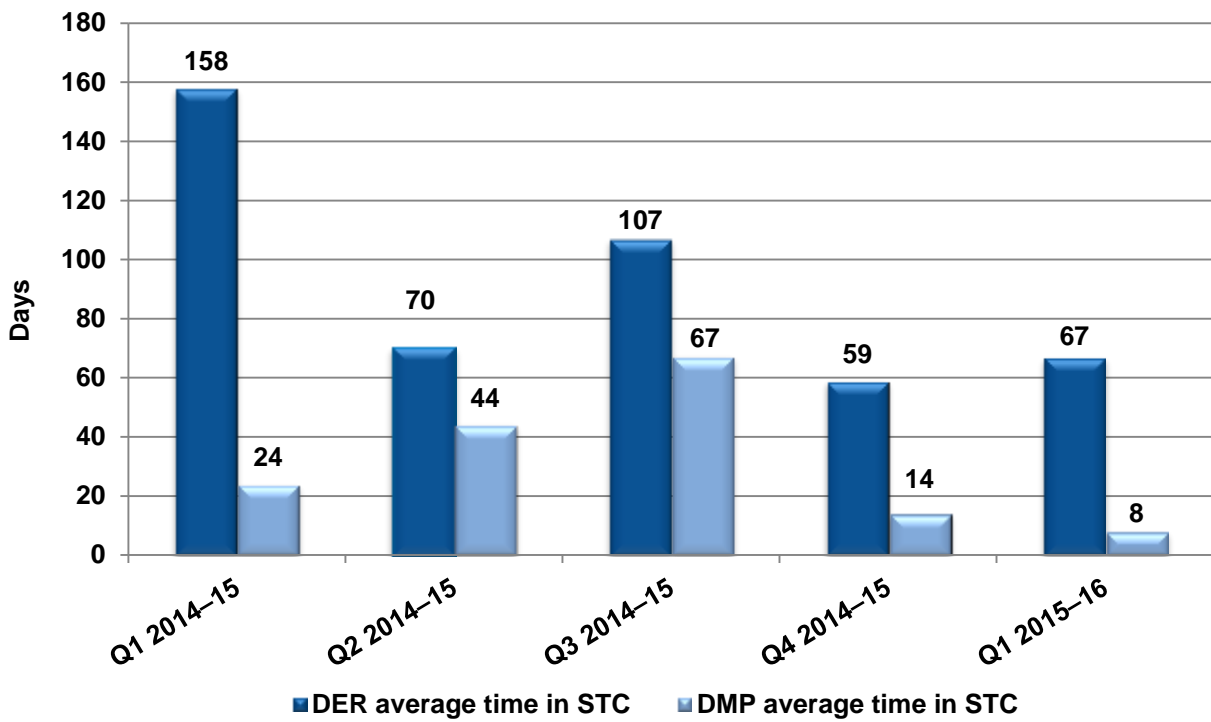


Table 2.5 Decisions subject to ‘stop the clock’*

‘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	22	8	60	67	82	46

*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



3. Contaminated sites

3.1 Overview

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

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

By 30 September 2015, DER had received 3,650 reports of known or suspected contaminated sites (also referred to as Form 1s). 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

Thirty-eight sites were reported in the first quarter of 2015–16 (see Table 3.1 and Figure 3.1).

By 30 September 2015, a total of 3,100 sites had been classified (made up of 20,543 individual lots or land parcels) under the CS Act (see Figure 3.2).

A total of 95 sites were classified in the first quarter of 2015–16.

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

The most common reason DER extends the classification time frame is because a proponent requests it and informs DER that investigation of the site is 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

	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16
Carried over from previous quarter	11	14	13	19	6
New form 1s received	50	33	43	25	38
Processed within statutory 45 days	47	33	36	38	35
Open at end of quarter*	14	13	19	6	8
Exceeding statutory 45 days	0	1	1	0	1

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

Figure 3.1 Number of sites reported and classified each period

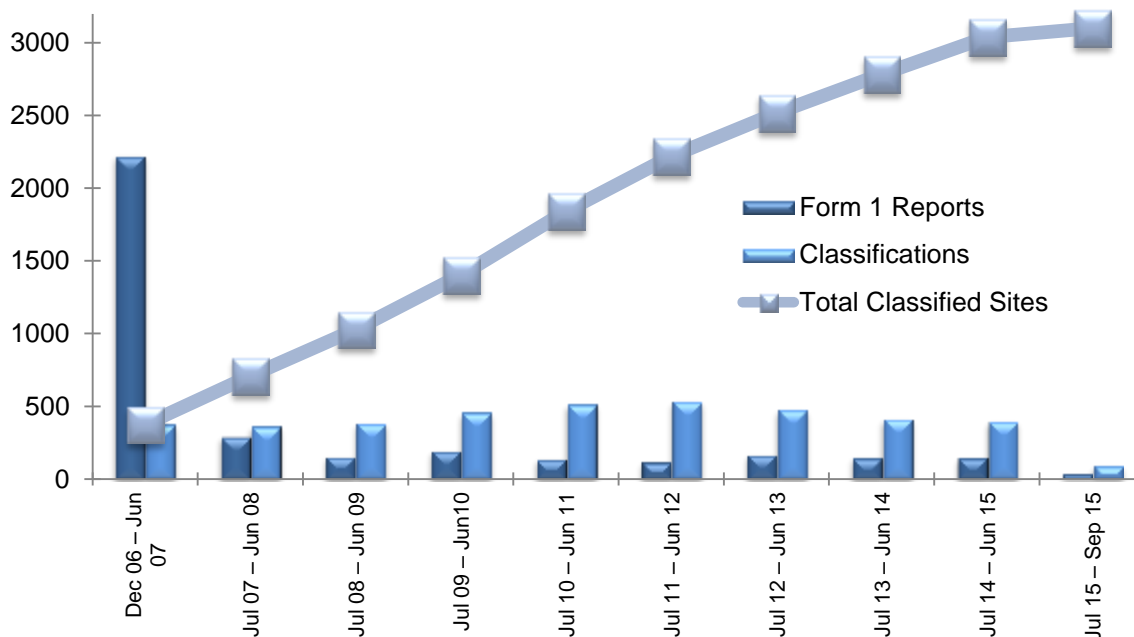
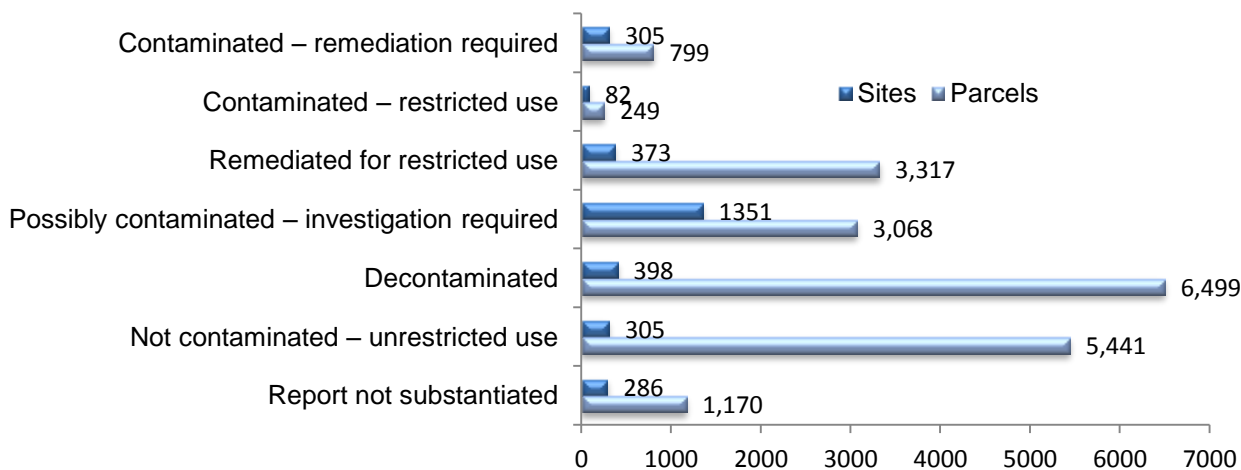


Figure 3.1 shows the number of sites reported and classified each financial year until June 2015, and quarterly since July 2015, as well as the steady increase in the total number of classified sites at the end of each period.

Figure 3.2 Distribution at 30 September 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 10 MARs in the first quarter of 2015–16 and seven MARs were processed. In addition, one MAR carried forward from the previous reporting period was processed, bringing the total number of MARs processed within this period to eight.

One MAR received within this period was reviewed by DER only and did not require referral to other agencies. The processing time for the MAR reviewed by DER only was 26 days, exceeding DER's 21-day target. The average processing time for all MARs completed during this reporting period was 37 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

	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16
MARs received	18	15	10	11	10
MAR reviews completed	23	14	8	13	8
MARs carried forward	3	4	6	3	4*
Average processing time (days)	32	60	34	44	37
MARs processed by DER only	13	5	2	6	1
Average time for MARs processed by DER only (days)	22	20	16	19	26

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

4. Environmental compliance

Inspection Type	Inspection Description	Inspection Number
Waste Compliance Program	Targeted compliance at landfills and associated waste facilities	88
Pollution Response Activities	Hazmat Risk Inspections	1
	Environmental Risk Inspections	4
Total		93

Waste compliance program

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

DER audits landfill levy returns to verify accuracy of the data submitted and exemptions applied. During the first quarter, 88 inspections of landfills and associated waste industries were undertaken to assist compliance with the landfill levy regulations.

Controlled waste regulation

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

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

During the first quarter 164 licence applications were received, with 100 per cent being assessed within the 30-day statutory time frame.

Statutory submissions

Five hundred and ninety-eight (598) Annual Environmental Reports (AERs) and Annual Audit Compliance Reports (AACRs) were due to be submitted to DER during the first quarter of 2015–2016.

Five hundred and ten (510) AERs and AACRs (85 per cent) were received.

DER is in the process of assessing reports received and following up on those reports outstanding.

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

Region	Q3 2013–14		Q4 2013–14		Q1 2014–15	
	Complaint	Incident	Complaint	Incident	Complaint	Incident
Goldfields	9	102	8	70	5	30
Greater Swan	236	157	337	95	203	84
Indian Ocean Territories (IOT)	1	7	0	5	0	2
Midwest	4	30	7	16	4	21
North West	12	78	24	211	32	24
Perth	84	125	112	164	98	216
South Coast	22	106	16	48	11	26
Total	368	605	504	609	353	403

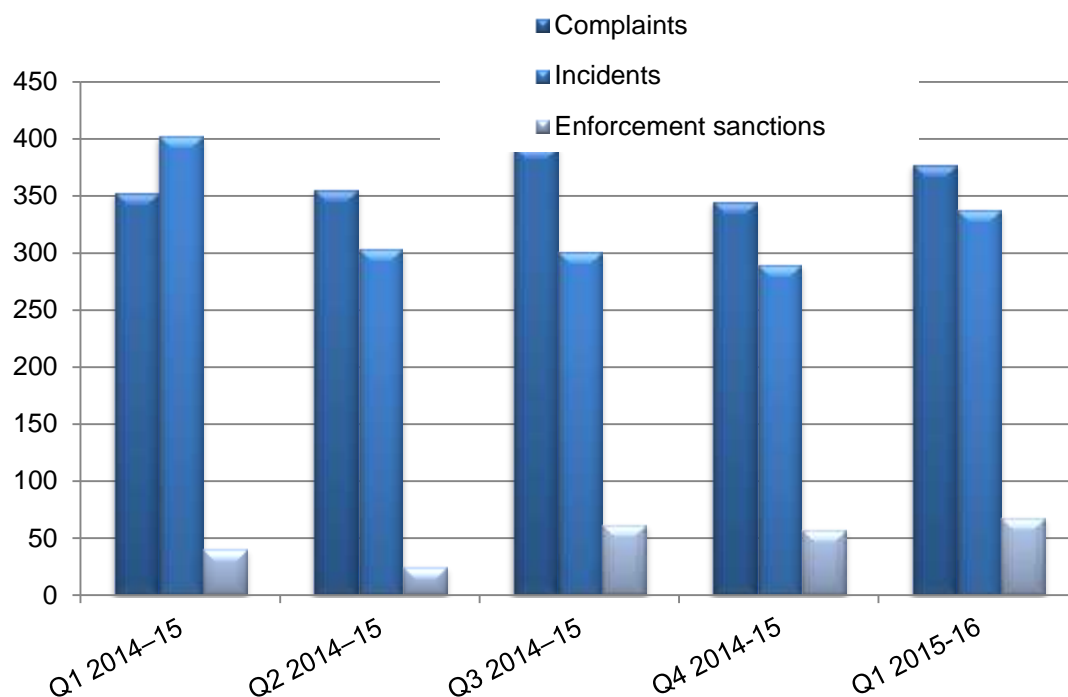
Table 5.1(b) Environmental complaints¹/incidents² by DER region³

Region	Q3 2014–15		Q4 2014–15		Q1 2015–16	
	Complaint	Incident	Complaint	Incident	Complaint	Incident
Goldfields	6	49	4	40	10	44
Greater Swan	196	75	171	65	194	74
Indian Ocean Territories (IOT)	1	1	0	0	0	3
Midwest	18	23	4	13	8	20
North West	7	34	17	56	20	70
Perth	156	90	133	94	126	111
South Coast	10	29	16	22	20	16
Total	394	301	345	290	378	338

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

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

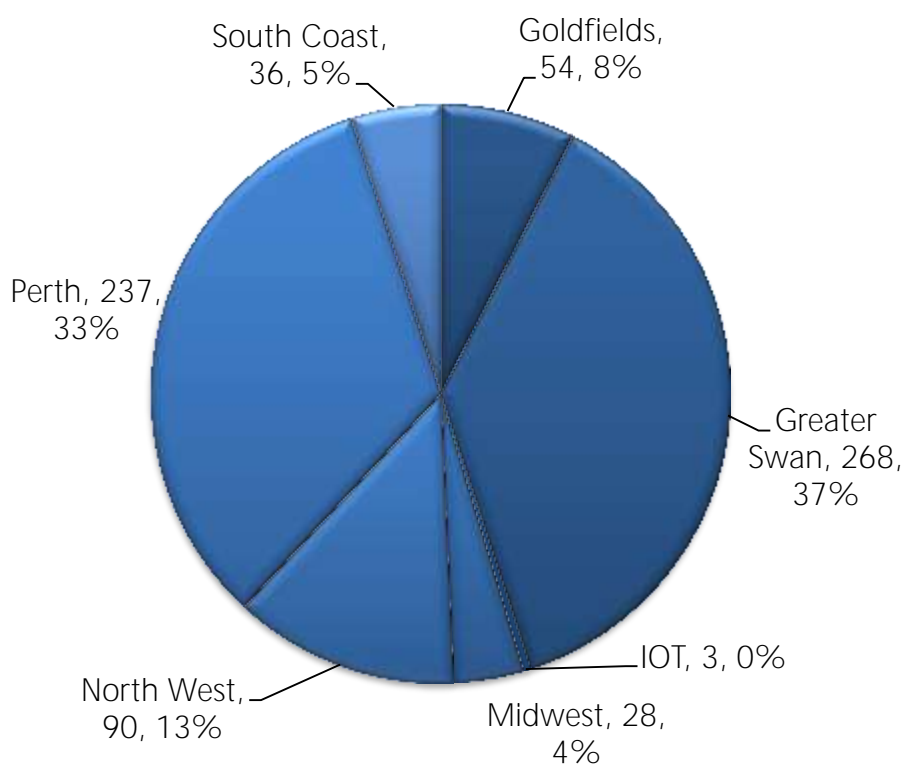
³ DER regional boundaries changed on 1 March 2014; figures associated with the former regional boundaries are incorporated in the new regional boundaries.

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

Table 5.2 Environmental complaints/incidents reported by sub-category, Q1 2015-16

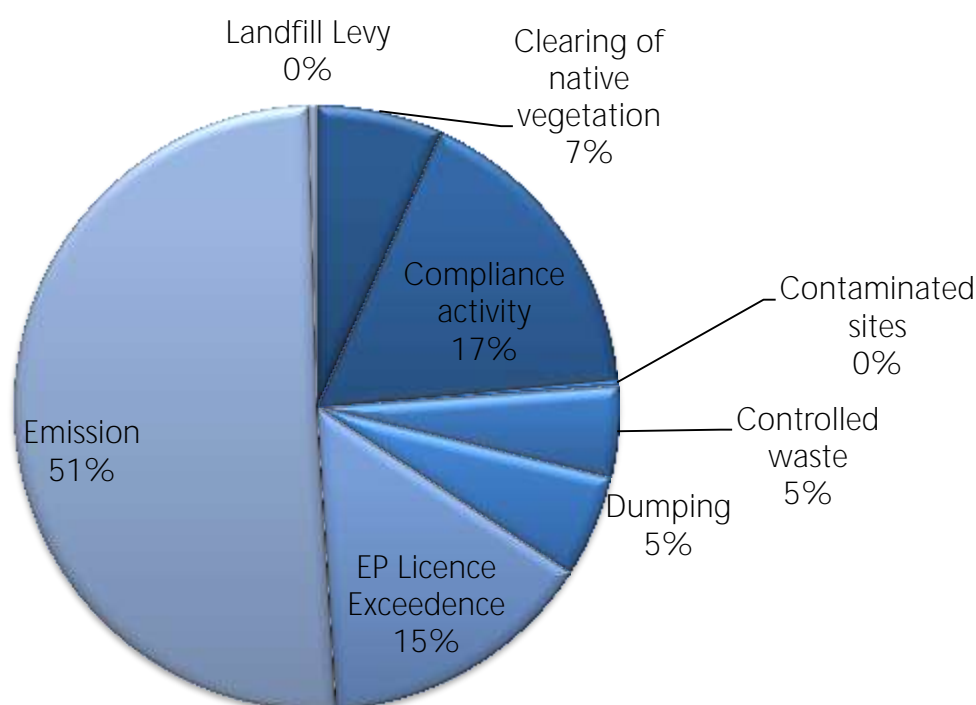
Category	Complaints /Incidents	Enforcement Actions
Clearing of native vegetation including:	42	18
Burning	0	
Cutting	41	
Draining	1	
Grazing	0	
Poisoning	0	
Unspecified	0	
Compliance including:	109	13
Clearing permit	0	
Industry licence	71	
Industry registration	5	
Proactive compliance	15	
Statutory reporting requirement	9	
Works approval	5	
Unspecified	4	
Contaminated sites	0	0
Controlled waste including:	32	3
Disposal site	22	
Unauthorised disposal	2	
Unauthorised transport	8	
Waste generator	0	
Unspecified	0	
Dumping including:	36	0
Asbestos	5	
Construction & demolition	6	
Green waste	2	
Hazardous materials	4	
Household waste	14	
Tyres	5	
Unspecified	0	

Category	Complaints /Incidents	Enforcement Actions
EP licence breach including:	90	4
Condition breach—late report	17	
Condition breach—licence limit	9	
Condition breach—reporting condition	37	
Condition breach—other	24	
Unspecified	3	
Emission including:	345	30
Air quality	3	
Dumping waste	7	
Dust	25	
Hazardous material	12	
Light	0	
Liquid waste	109	
Noise	36	
Odour	98	
Pesticide	4	
Smoke	19	
Solid waste	10	
Unauthorised discharge	22	
Unspecified	0	
Landfill levy	0	0
Non-payment of levy	0	
Fail to submit return	0	
Threat/Aggression/Assault⁴	0	0
Risk rating: Low	0	
Other	62	0
Total	716	68

Figure 5.2 Complaints and incidents received by DER region, Q1 2015–16



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

Figure 5.3 Complaints and incidents as percentages, Q1 2015–16

Table 5.3 Enforcement sanctions undertaken over six quarters

Type of action	Q4 2013–14	Q1 2014–15	Q2 2014–15	Q3 2014–15	Q4 2014–15	Q1 2015–16
Environmental field report (EFR) ⁵	19	0	3	28	31	18
Letter of warning ⁶	25	32	16	26	20	30
Infringement notices ⁷	0	6	3	4	5	4
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	0	0	1	0	0	0
Modified penalty ¹¹	0	0	0	0	0	4
Prosecutions commenced ¹²	0	0	2	4	2	9
Pending prosecutions	11	9	8	5	9	12
Current prosecutions before the court	4	3	3	5	8	11

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			
	Q1 2012–13	Q1 2013–14	Q1 2014–15	Q1 2015–16
Licence review/amendment ¹⁴	0	6	2	4
Prescribed action ¹⁵	0	1	1	0
EFR	41	41	0	18
Letter of warning	6	10	32	30
Infringement notices	21	5	6	4
EPN	2	1	0	0
Stop work order	0	0	0	0
Statutory direction/notice	0	1	0	0
Modified penalty	2	0	0	4
Prosecution	3	3	0	9

Table 5.5 Native vegetation regulation activity, Q1 2015–16

Activity	Number
Vegetation conservation notice (VCN) ¹⁶	1 (46 active)
Clearing applications	129
Clearing approvals	68
Letters of warning	15
Prosecutions	1

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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W: www.der.wa.gov.au

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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