



QUARTERLY REPORTING

QUARTER 2 2013–14

REPORT

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

## **Enquiries**

Phone: +61 8 6467 5000  
Fax: +61 8 6467 5562  
Email: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)  
[www.der.wa.gov.au](http://www.der.wa.gov.au)

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This document is available in alternative formats and languages on request to the Department of Environment Regulation.

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# 1. Introduction

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

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

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

- *Contaminated Sites Act 2003*
- *Environmental Protection Act 1986*.

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
- enforcement, including complaint and incident investigation.

DER has responsibility under Part V of the *Environmental Protection Act 1986* 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, as well as regulations, and takes enforcement action as appropriate.

Under the *Contaminated Sites Act 2003*, DER regulates contaminated sites by receiving reports of known or suspected contaminated sites, assessing and classifying contaminated sites, maintaining public information on contaminated sites, and ordering and monitoring remediation.

DER plans its industry regulation compliance activities annually, setting inspection targets and reporting on its performance.

DER aims to be an effective regulator, using a balance of proactive engagement and enforcement tools to achieve appropriate environmental outcomes in industry regulation.

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

- works approvals and licences—number and timeliness of works approvals and licences granted for major resource and other projects, and controlled waste licences
- environmental compliance—industry regulation proactive compliance inspection program
- native vegetation clearing permits—number and timeliness of decisions on clearing permit applications made by DER and the Department of Mines and Petroleum (through delegation under the *Environmental Protection Act 1986*)
- contaminated sites—number of classifications of reported known or suspected contaminated sites, and number and timeliness of review of mandatory auditor's reports
- environmental enforcement—statistical and supporting information outlining DER's enforcement activity and outcomes.

## 2. Works approvals and licences

### 2.1 Introduction

DER grants works approvals and licences to regulate prescribed activities, as authorised under Part V of the *Environmental Protection Act 1986*.

#### Major resource projects

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

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

The quarterly figures for major resource project works approval and licence applications are summarised in tables 2.1 and 2.2.

During the second quarter of 2013–14, 32 new works approval applications were submitted, which is the second lowest number received since the third quarter 2011–12. Twenty works approvals were decided, which is half of the number decided in the previous quarter.

DER decided 95 per cent of new works approval applications in the second quarter of 2013–14 within the target time frame. This is an increase in percentage since the last quarter (92 per cent) and

is the second highest percentage since the second quarter of 2011–12. The average processing time for works approval applications during the second quarter of 2013–14 remained steady at 49 days.

Five new licence applications were received in the second quarter of 2013–14 and six licences were decided, which is nearly half the number decided in the previous quarter. DER decided 83 per cent of new licence applications in the second quarter 2013–14 within the target time frame; this is a decrease in percentage from the previous two quarters of licences decided within the target time frame.

Figures 2.1 and 2.2 provide a quarterly summary, since Q3 2012–13, for major resource project approvals decided by DER, the average time taken to decide applications, and DER's performance in meeting the time frame.

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

### 2.2 Performance

**Table 2.1. Major resource project works approval applications**

Quarter	Carried over from previous quarter	New	Granted	Awaiting Part V action	Refused	With-drawn	Open at end of quarter	Percentage decided meeting target time frame*	Average time to decide (working days)
Quarter 3 12–13	27	46	35	21	0	2	36	83%	49
Quarter 4 12–13	36	40	29	32	0	3	44	100%	42
Quarter 1 13–14	44	19	40	16	0	0	23	92%	48
Quarter 2 13–14	23	32	20	25	0	0	35	95%	49

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

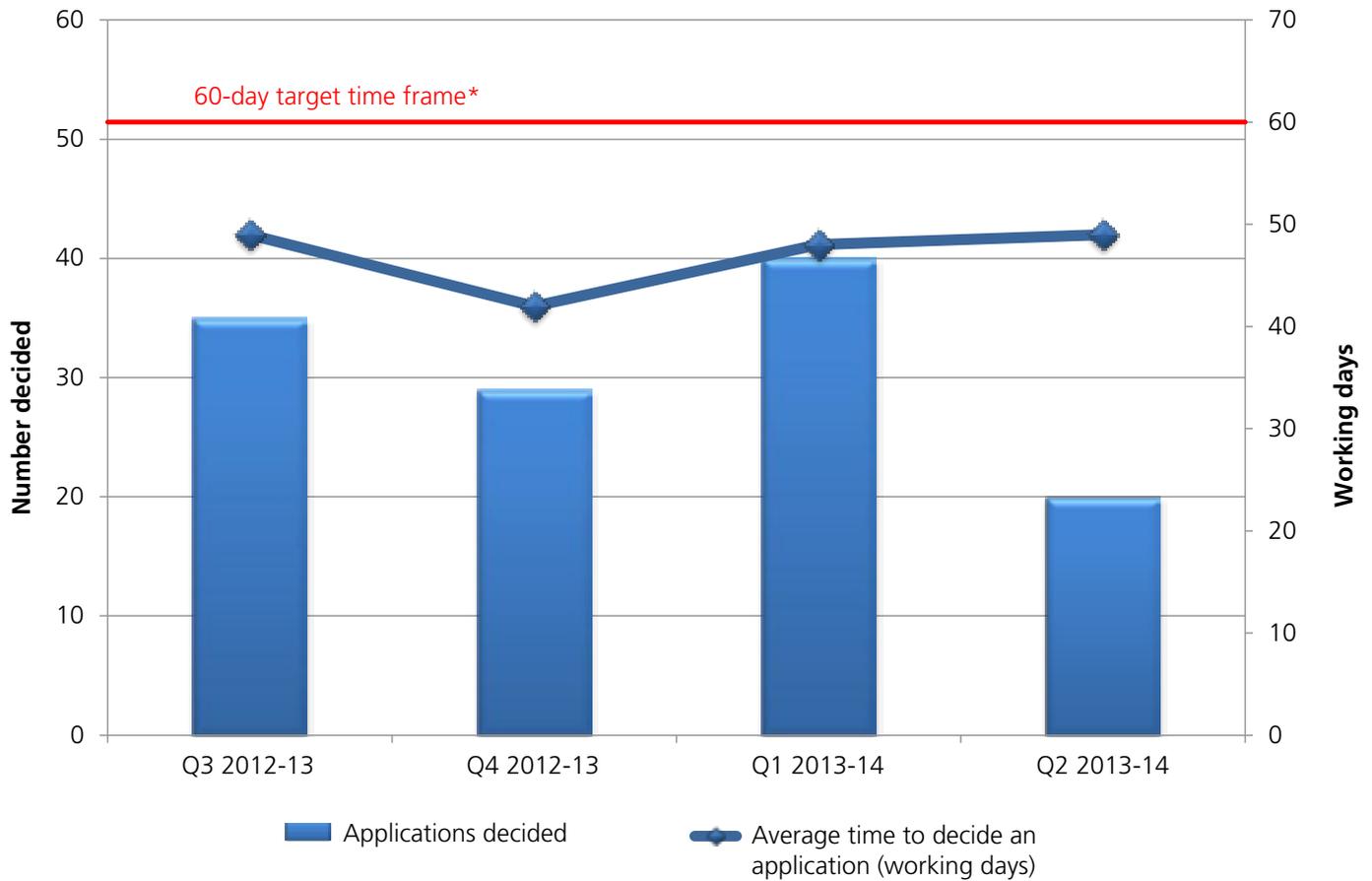
# Works approvals and licences

**Table 2.2. Major resource project licence applications**

Quarter	Carried over from previous quarter	New	Granted	Awaiting Part V action	Refused	Withdrawn	Open at end of quarter	Percentage decided meeting target time frame*	Average time to decide (working days)
Quarter 3 12–13	21	7	9	4	0	0	19	89%	48
Quarter 4 12–13	19	13	5	7	0	2	27	100%	48
Quarter 1 13–14	27	7	11	3	0	1	22	100%	50
Quarter 2 13–14	22	5	6	3	0	1	20	83%	45

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

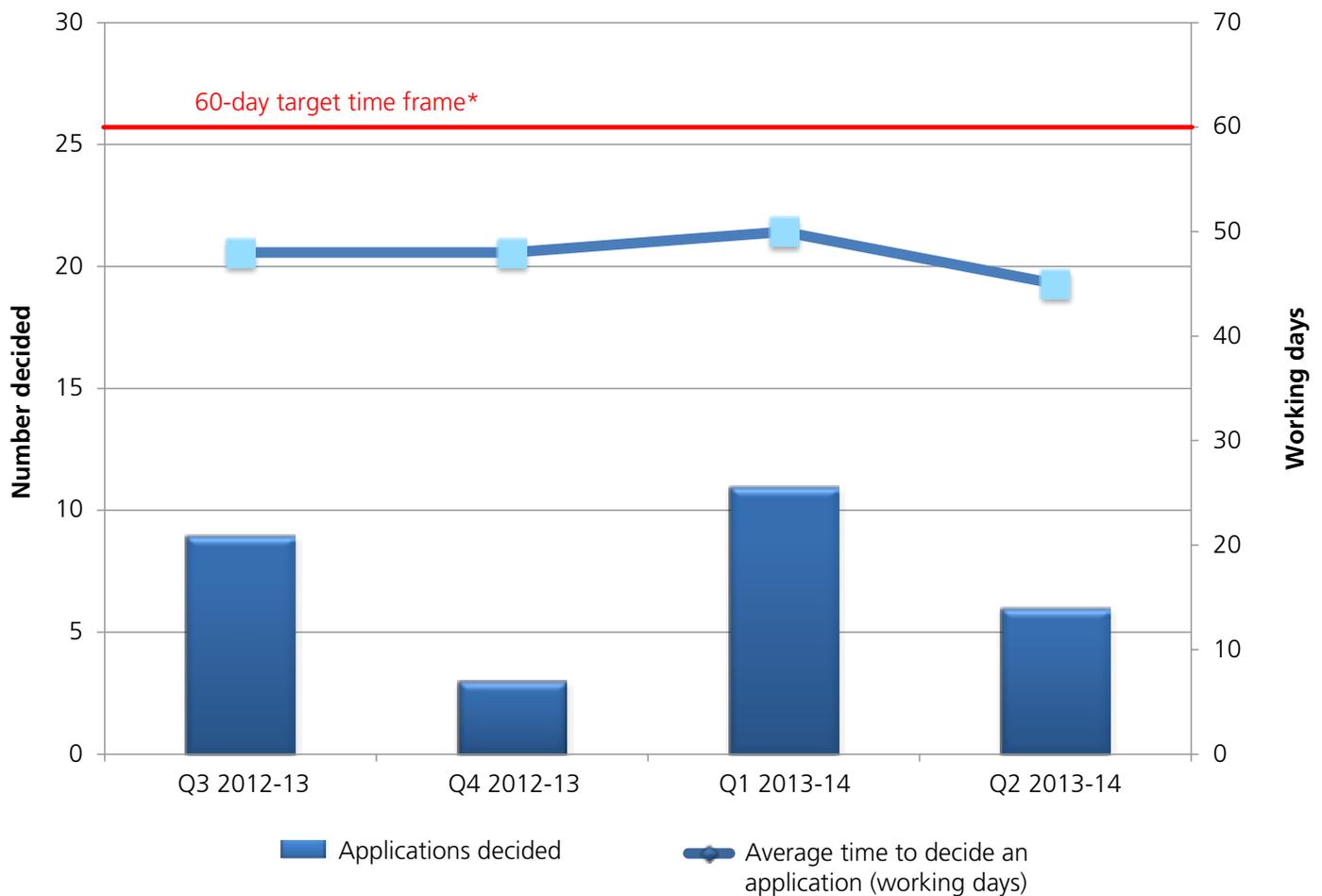
**Figure 2.1. Summary of major resource projects works approvals**



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

# Works approvals and licences

**Figure 2.2. 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.

In January 2010, tracking mechanisms were implemented to regularly monitor the progress of applications to improve DER’s performance in meeting the target time frame for all works approvals and licences.

Twenty-two other project works approval applications were decided by DER in the second quarter of 2013–14. DER decided 91 per cent of these new works approvals within the target time frame. This is an improvement on the rate of 74 per cent in the previous quarter.

The average processing time for other project works approval applications decreased this quarter to 37 days, compared to 49 days in the previous quarter.

Eleven other project licences were decided by DER in the second quarter of 2013–14.

Sixty-four per cent of other project licence applications were decided within the target time frame in the second quarter of 2013-14. This is a decrease in percentage from the previous quarter; however, the average time of 56 days to process a licence application remains below the target time frame.

The quarterly figures for other project works approval and licence applications are summarised in tables 2.3 and 2.4, and figures 2.3 and 2.4.

# Works approvals and licences

**Table 2.3. Other project works approval applications**

Quarter	Carried over from previous quarter	New	Granted	Awaiting Part V action	Refused	With-drawn	Open at end of quarter	Percentage decided meeting target time frame*	Average time to decide (working days)
Quarter 3 12–13	40	29	35	17	0	2	32	54%	61
Quarter 4 12–13	32	24	28	15	0	1	27	68%	53
Quarter 1 13–14	27	21	19	13	0	0	29	74%	49
Quarter 2 13–14	29	28	22	19	0	0	35	91%	37

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

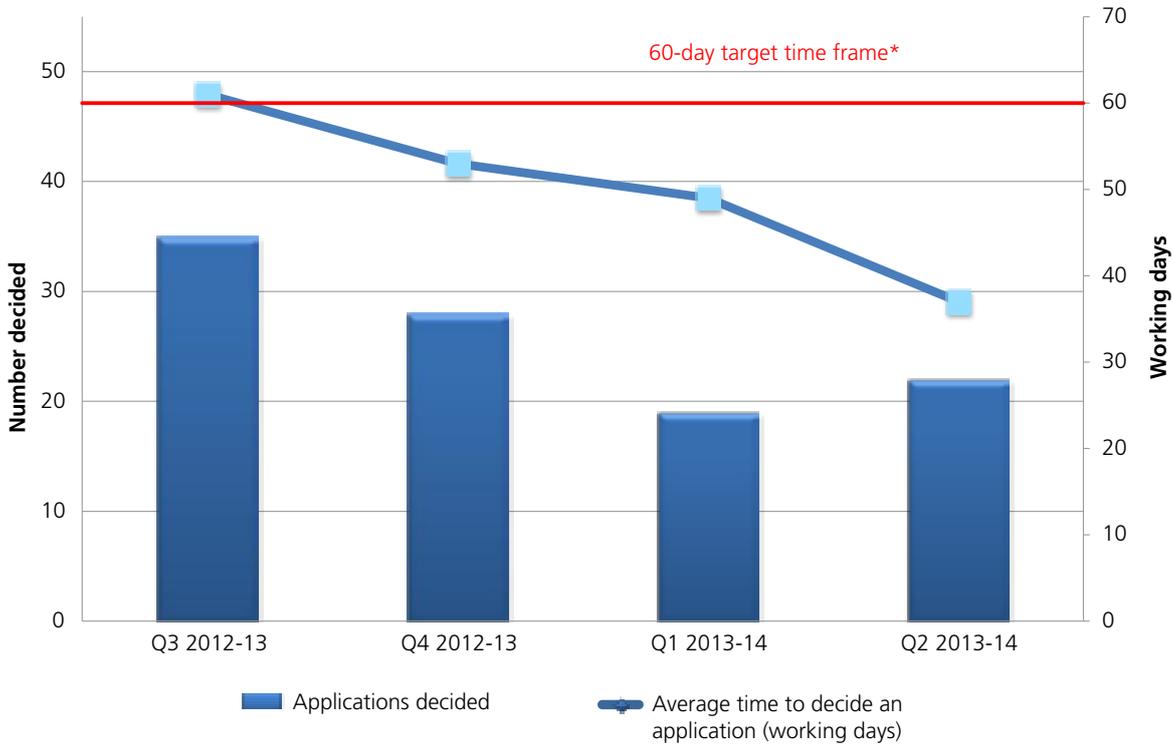
**Table 2.4. Other project licence applications**

Quarter	Carried over from previous quarter	New	Granted	Awaiting Part V action	Refused	With-drawn	Open at end of quarter	Percentage decided meeting target time frame*	Average time to decide (working days)
Quarter 3 12–13	21	11	10	7	0	1	21	75%	53
Quarter 4 12–13	21	11	11	7	0	2	19	64%	56
Quarter 1 13–14	19	16	17	9	0	1	17	88%	39
Quarter 2 13-14	17	12	11	9	0	1	17	64%	56

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

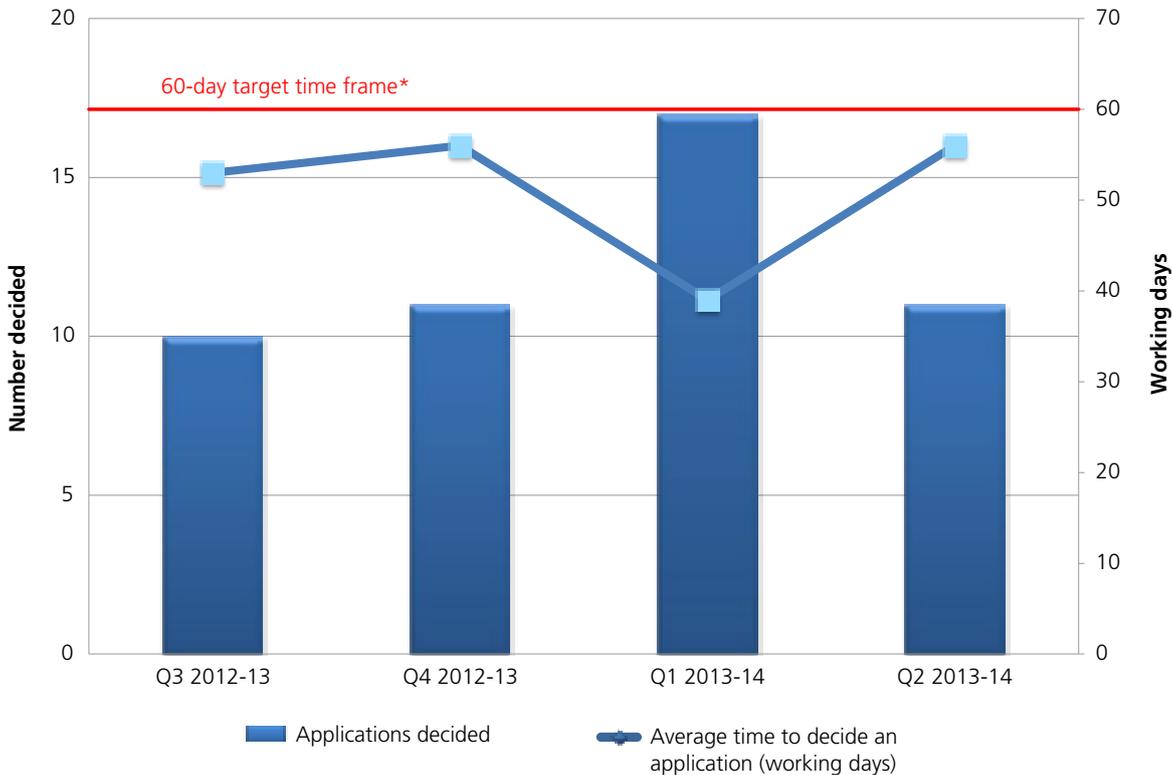
# Works approvals and licences

**Figure 2.3. Other project works approvals**



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

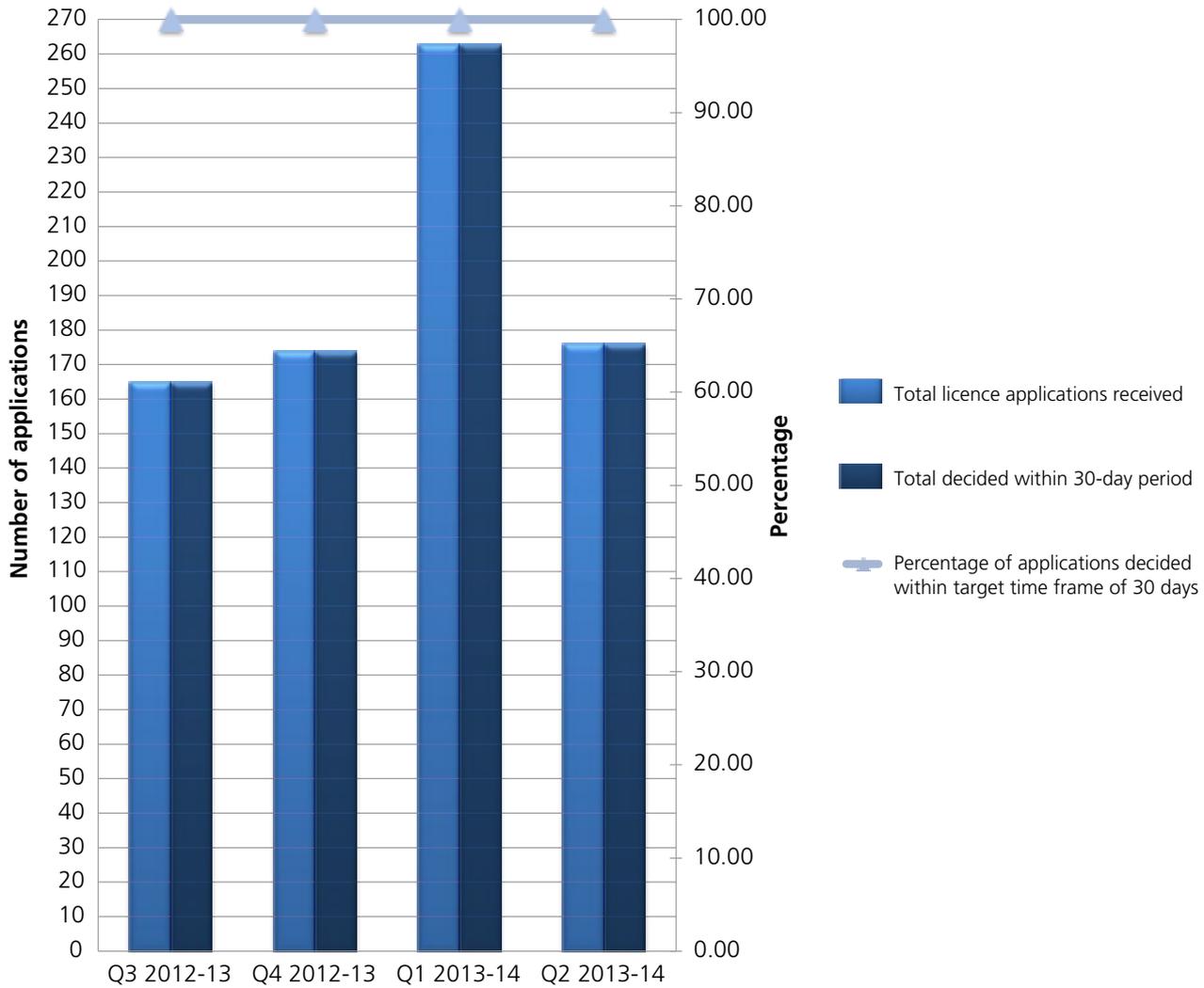
**Figure 2.4. Other project licences**



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

# Works approvals and licences

**Figure 2.5. Controlled waste licence applications**



## Controlled waste regulation

DER assesses applications for new controlled waste carrier, vehicle, and driver licences. Figure 2.5 shows the number of new licence applications decided since the third quarter of 2012–13.

DER has a target to decide 100 per cent of all new licence applications within the 30-day statutory time frame.

During the second quarter of 2013–14, DER continued to achieve its target, with 100 per cent of the 176 applications decided within the 30-day statutory time frame.

# 3. Environmental compliance

## 3.1 Introduction

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

The 2013–14 program commenced on 1 July 2013 and incorporates the four compliance streams outlined in table 3.1.

**Table 3.1. Compliance streams**

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

**Figure 3.1. Proactive compliance inspections over the previous four quarters**

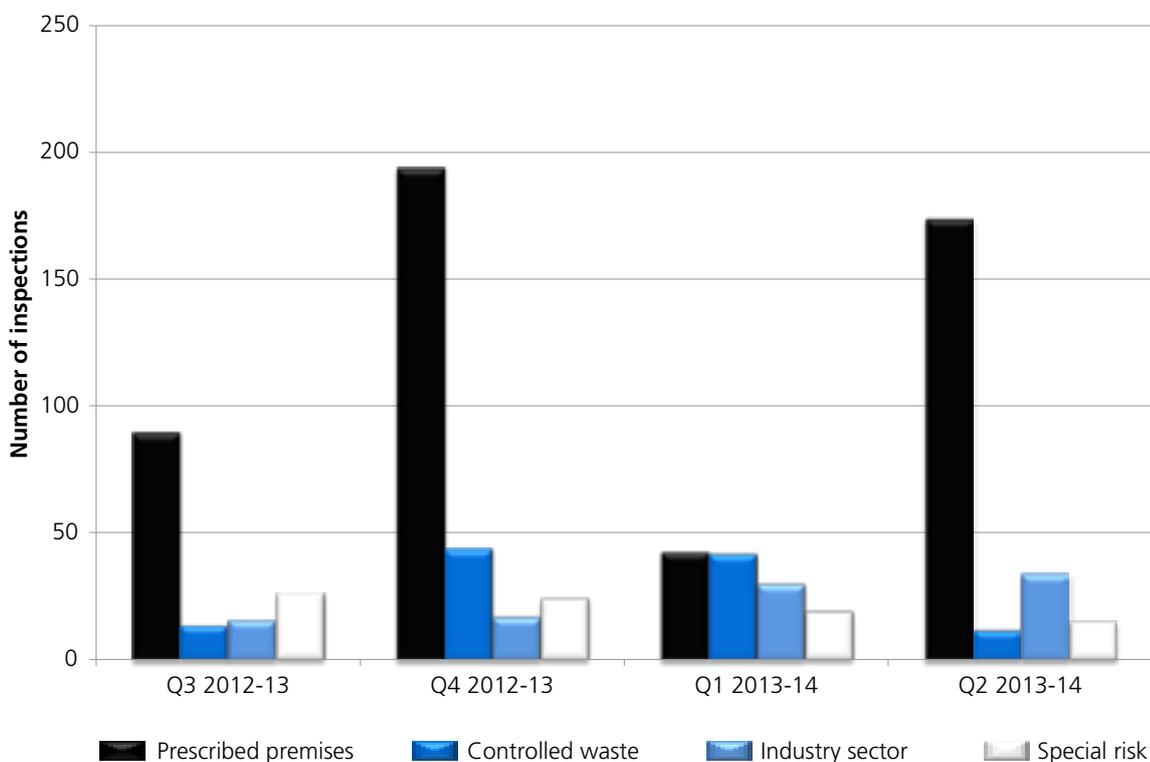


Figure 3.1 shows that all four compliance streams were progressing well as DER reached the halfway mark of the 2013–14 program on 31 December 2013; a breakdown of the compliance program results for the quarter is outlined in the following sections.

## 3.2 Performance

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

A total of 806 proactive inspections are planned for the 2013–14 program.

Since Quarter 1 2013–14, 21 inspections have been removed from the program due to licences becoming inactive during the reporting period, and inspections of abrasive blasting and metal

coating operators deferred pending industry consultation.

A summary of the proactive inspections undertaken to date is outlined in table 3.2 below.

**Table 3.2. Industry regulation compliance program 2013–14**

		2013–14 Inspection —Target	2013–14 Inspection —Actual	% Achieved
Regional prescribed premises program	Prescribed premises inspections	511	217	42
Controlled waste compliance program	General inspections	80	46	58
	Controlled waste disposal sites	10	6	60
	Targeted controlled waste industries	25	2	8
	Total	115	54	47
Industry sector compliance program	Packaged fertiliser	20	20	100
	Asbestos management in construction and demolition (C&D) recycling facilities	14	13	93
	Bulk port facilities (over the next two years compliance program)	26*	26	100
	Cattle feedlots	45	0	0
	Environmental scans of regional industrial areas	20	5	25
	Total	125	64	51
Special risk compliance program	Total	55	34	62
2013–14 Program progress as at 31 December 2013		806	369	46

\* Industry consultation and data-gathering to prepare for inspections to begin in 2014–15

# Environmental compliance

## Regional prescribed premises program

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

For the 2013–14 period DER has completed 42 per cent of planned inspections.

## Controlled waste compliance program

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

For the 2013–14 period DER has undertaken 47 per cent of planned controlled waste inspections.

## Industry sector compliance program

### Packaged fertiliser compliance program

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

A target of 20 inspections of retail outlets selling the fertiliser products was set for the 2013–14 program, of which 100 per cent was achieved in the first quarter of the program. DER is engaging with manufacturers of non-compliant product identified during these inspections to ensure compliance with the Regulations.

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

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

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

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

### Category 13 asbestos guidelines compliance program

The asbestos management in the C&D waste compliance program commenced in January 2013. Initially, 17 licensed facilities were amended to include conditions requiring phased compliance with the guidelines.

The amended conditions include the submission of an assessment report, which assesses the operations at the facilities against the provisions of the guidelines and, where gaps in compliance with the guidelines are identified, provides an environmental improvement plan. This is the first step in the compliance management process,

DER then approves the plan and monitors its implementation over a set period of time.

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

DER has assessed submissions provided by Category 13 licensees, as required by their amended licences, and has undertaken site audits of each premises to verify that the licensees are operating in line with the guidelines (refer Table 3.3).

DER is continuing to work with licensees who have not yet achieved compliance with the guidelines. It is anticipated that the compliance program will be completed by the end of quarter 3, 2013–14.

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

**Table 3.3. Asbestos management at C&D waste recycling facilities 2013–14**

Scope	No. Licensees
Category 13 licences amended	17
Category 13 removed from licences	3
Environmental improvement plans (EIP) required, received and approved	17
Compliant licensees	13
Licensees inspected but not yet compliant	3
Licensees not yet inspected	1

### **Category 62 asbestos guidelines compliance program**

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

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

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

The bulk port facilities compliance program is planned for the 2013–14 and 2014–15 financial years.

DER is currently collecting background data and information pertaining to imports, exports, wastes produced and materials stored at the ports.

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

### **Environmental scans of regional industrial areas compliance program**

This program has been established to assess industrial premises across regional areas against the general provisions of the *Environmental Protection Act 1986* and any subsidiary legislation, and promote improvements in general environmental management practices. To date in the 2013–14 program, DER has undertaken five environmental scans.

It is anticipated that the cattle feedlots compliance program will commence in quarter 3 and 4 2013–14.

### **Special risk inspection program**

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

Sixty-two per cent of inspections for the 2013–14 period have been undertaken to date.

# 4. Native vegetation clearing permits

## 4.1 Introduction

### Clearing provisions

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

Under section 20 of the *Environmental Protection Act 1986* (EP Act), the Chief Executive Officer (CEO) of DER has delegated decision-making on clearing applications to the Department of Mines and Petroleum (DMP) for the following activities:

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

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

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

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

### Time frames

Target time frames are 80 per cent of applications to be decided within 60 calendar days of receipt, and 100 per cent within 90 calendar days.

The time frame commences from the date an application is received and ends on the day a decision is made, excluding the time in 'stop the clock'. 'Stop the clock' may only be used where there is legislative power or requirement to do so, as outlined under the section 'Clearing permits' on page 14.

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

### 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 per annum. The number of applications steadily increased over the next three financial years with 689 applications received during 2009–10, 758 applications in 2010–11 and 833 applications in 2011–12. There has been a decrease in the number of applications received in 2012–13, to 752 applications.

DER received 104 clearing permit applications this quarter.

The number of open applications at the end of this quarter decreased to 135, compared to 170 at the end of the previous quarter and 149 at the same time last year.

During this quarter, DER made 140 decisions on applications, which is slightly higher than previous quarter's figure of 138 decisions.

The average time frame to make a decision was 54 days, which is consistent with previous quarters. Of the 140 decisions made on applications, 107 clearing permits were granted within an average time frame of 56 days. Three applications for a clearing permit were refused. Of the remaining applications, 29 were withdrawn and one declined as the application was not valid.

The ongoing relatively timely delivery of decisions on average corresponds to the risk-based approach to assessments that is based on sensitivity of the environment, magnitude of impact/s and urgency of the clearing, the ongoing monitoring of performance and the continual improvements to processes.

Overall, in comparison to the target time frames, DER did not meet these time frames this quarter, with 60 per cent of decisions made within 60 days, 37 per cent within 90 days and three per cent taking longer than 90 days.

Four applications did not meet the 90-day target time frame. Two applications were finalised within 93 days, and two within 99 days. These applications required modifications and further information during the assessment process.

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

## 4.2 Performance

Figure 4.1. Number of decisions made by DER and DMP in the previous four quarters

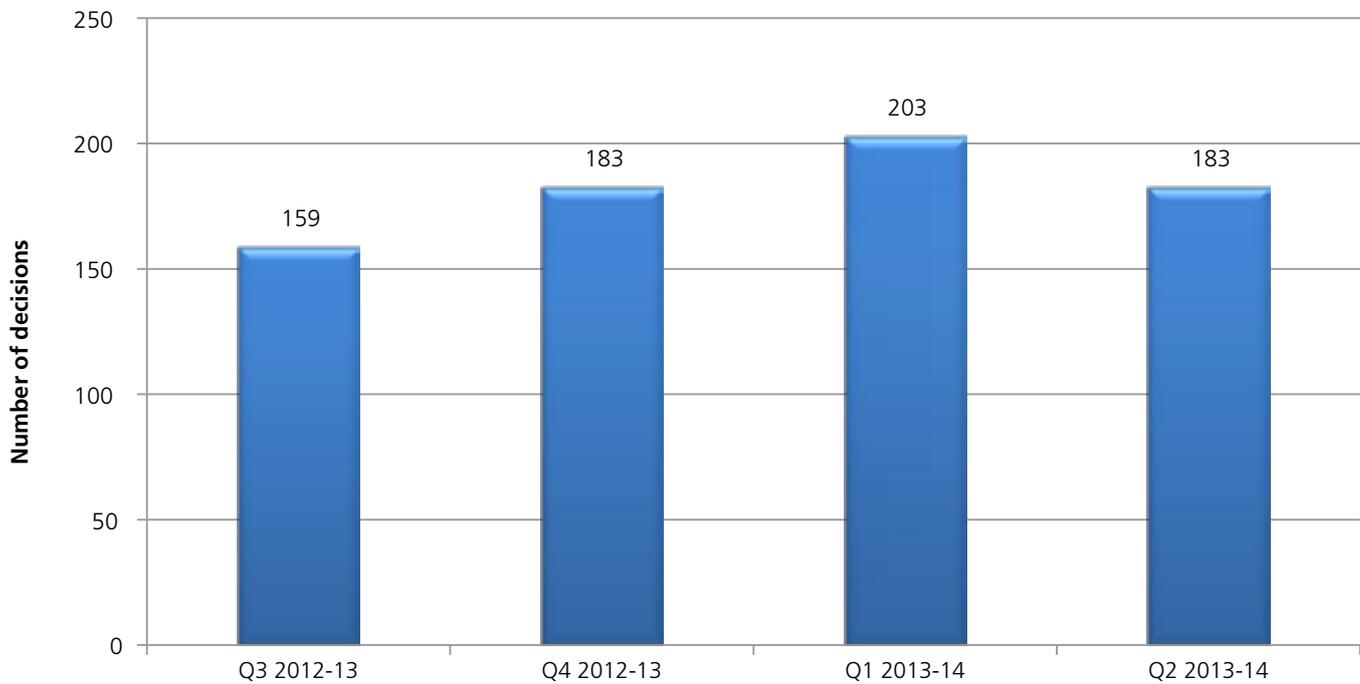


Table 4.1. Number of decisions made in Q2 by DER and DMP by purpose

Purpose	Number of decisions made Q2 2013-14				
	Less than or equal to 60 days	61 to 90 days	91 to 120 days	Greater than 120 days	Total
State development	35	10	1	1	47
Local government	30	19	0	0	49
Utilities	8	1	1	0	10
Agriculture / horticulture / forestry	6	9	1	0	16
Basic raw materials	4	3	0	0	7
Other development	39	13	2	0	54
<b>Total</b>	<b>122</b>	<b>55</b>	<b>5</b>	<b>1</b>	<b>183</b>

# Native vegetation clearing permits

**Table 4.2. Description of clearing purpose**

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

## Clearing permits

Tables 4.3 and 4.4 on the following pages show the number of decisions that have been made on clearing permit applications by DER and DMP, including the percentage of applications that were decided within target time frames.

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

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

### Waiting on applicant

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

that he or she requires evidence of planning or other relevant approvals before making the final decision. This status is also assigned when the applicant requests in writing the process to be put on hold.

### Decision pending

This status is assigned when the CEO, based on an initial assessment, considers that the application raises such significant environmental, planning or other relevant issues, that it is likely to be refused. The CEO provides an opportunity for the applicant to respond for a period of at least 30 days to meet natural justice requirements.

### Referred to Environmental Protection Authority (EPA)

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

# Native vegetation clearing permits

**Table 4.3. Time frame data for DER applications/decisions**

CATEGORY—DER	Q3 2012–13	Q4 2012–13	Q1 2013–14	Q2 2013–14
No. of applications carried over from previous periods	148	157	162	171*
No. of applications received	125	135	146	104
No. of decisions that were subject to 'stop the clock'	60	62	64	61
Average time in 'stop the clock' for decisions in days	108	75	149	111
Average time for decision in days (excluding time in 'stop the clock')	52	49	53	54
No. decisions on applications	116	126	138	140
No. of outstanding applications at end of quarter	157	166	170	135
<b>Percentage of applications that were finalised within benchmark time frame:</b>				
60 days (80% of applications finalised)	61%	60%	53%	60%
90 days (100% of applications finalised)	35%	36%	43%	37%
>90 days	4%	4%	4%	3%

\* This figure is not the same as the previous reporting period due to data correction occurring for Q1 2013 period.

**Table 4.4. Time frame data for DMP applications/decisions**

CATEGORY—DMP	Q3 2012–13	Q4 2012–13	Q1 2013–14	Q2 2013–14
No. of applications carried over from previous periods	43	53	48	30*
No. of applications received	56	51	48	44
No. of decisions that were subject to 'stop the clock'	2	6	33	26
Average time in 'stop the clock' for decisions in days	16	139	37	34
Average time for decision in days (excluding time in 'stop the clock')	64	68	57	48
No. decisions on applications	43	57	65	43
No. of outstanding applications at end of quarter	56	47	31	31
<b>Percentage of applications that were finalised within benchmark time frame:</b>				
60 days (80% of applications finalised)	51%	49%	75%	86%
90 days (100% of applications finalised)	37%	33%	15%	12%
>90 days	12%	18%	10%	2%

\* This figure is not the same as the previous reporting period due to data correction occurring for Q1 2013 period.

# Native vegetation clearing permits

Figure 4.2. Number of decisions made compared to target time frames in the previous four quarters

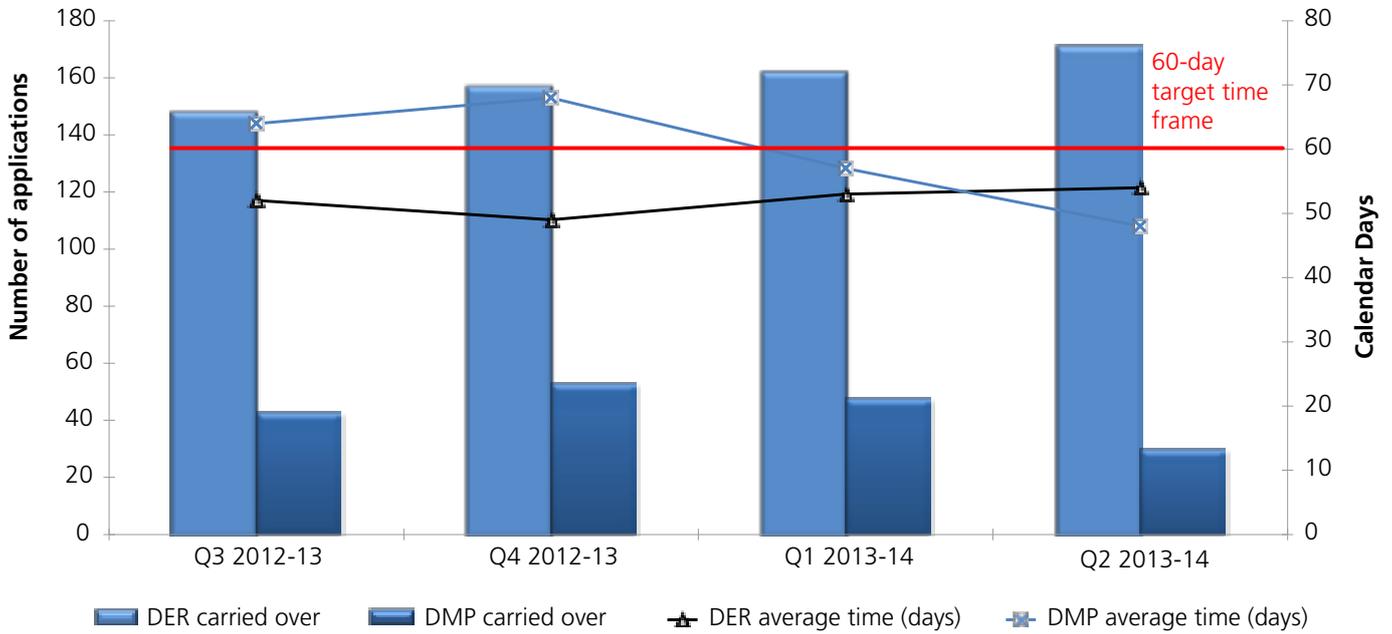


Table 4.5. Decisions subject to 'stop the clock'\*

'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	26	34	61	111	87	88

\* The total/average values in Table 4.5 may not match the total/average values shown in Table 4.6. because a 'decision' may be the subject of more than one reason for an incident of 'stop the clock'.

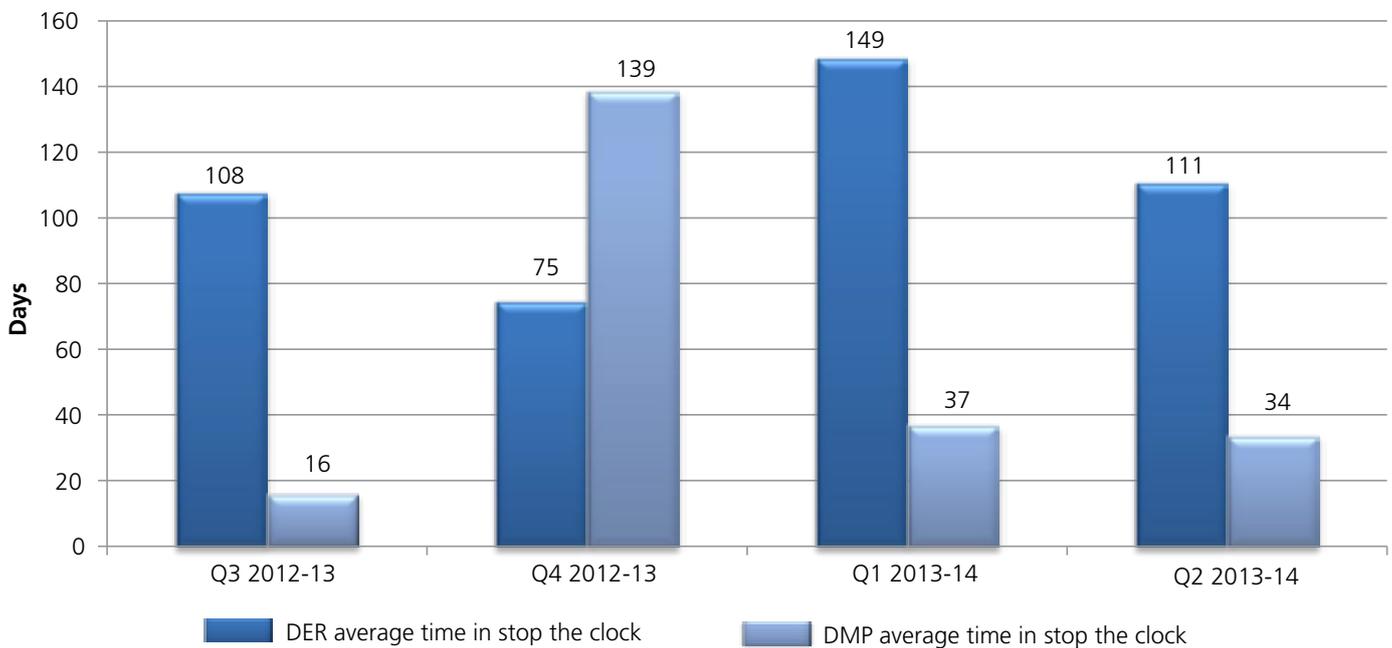
# Native vegetation clearing permits

**Table 4.6. Breakdown of reasons for 'stop the clock' by number of incidents, and average days per incident\***

'Stop the clock' reasons	DMP		DER		Overall	
	Number	Average days	Number	Average days	Number	Average days
Waiting on applicant	26	33	45	81	71	63
Decision pending	0	0	18	174	18	174
Referred to EPA	0	0	1	12	1	12
Total/average	26	33	64	106	90	85

\* The total/average values in Table 4.6 may not match the total/average values shown in Table 4.5. because a 'decision' may be the subject of more than one reason for an incident of 'stop the clock'.

**Figure 4.3. Average time in 'stop the clock' in the previous four quarters**



# 5. Contaminated sites

## 5.1 Introduction

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

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

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

By 31 December 2013, DER had received 3,399 reports of known or suspected contaminated sites (also referred to as 'Form 1s') since the CS Act commenced. Of the total number of reports, 59 per cent were received over the three-month period April to June 2007. Reporting of sites continues with an average of 13 reports being received each month.

After receiving a report of a 'known or suspected contaminated site' DER, in consultation with DoH, assigns one of seven possible classifications (set out in Schedule 1 of the CS Act) to the site based on the risk the contamination poses to human health and the environment.

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

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

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

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

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

## 5.2 Performance

Forty-nine sites were reported in quarter 2 2013–14 (see Table 5.1 and Figure 5.1).

By 31 December 2013, a total of 2,668 sites had been classified (made up of 17,980 individual lots or land parcels) under the CS Act (see Figure 5.2).

A total of 111 sites were classified in quarter 2 2013–14.

# Contaminated sites

**Table 5.1. Form 1s processed by quarter**

Quarter	Carried forward from previous quarter	New Form 1s received	Processed within statutory 45 days	Open at end of quarter*	Exceeding statutory 45 days
Quarter 3 2012–13	10	29	29	9	1
Quarter 4 2012–13	9	27	27	9	0
Quarter 1 2013–14	9	41	32	18	0
Quarter 2 2013–14	18	49	44	23	0

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

## Mandatory auditor’s reports

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

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

DER received 15 MARs in Q2 2013–14 and eight MARs were processed (seven MARs remain under review and two were awaiting information from the proponent). In addition, three MARs carried forward from the previous reporting period were processed, bringing the total number of MARs processed within this period to 11.

The average processing time for all MARs completed during this reporting period was 36 days, exceeding DER’s 21-day target (three weeks) due to several responses from other agencies being delayed.

The average processing time for the four MARs not requiring referral to other agencies was 15 days, within the 21-day target (see Table 5.2).

**Table 5.2. MAR review performance by quarter**

Quarter	MARs received in quarter	MAR reviews completed in quarter	MARs carried forward	Average processing time (days)	MARs processed by DER only	Average time for MARs processed by DER only (days)
Quarter 3 2012–13	10	11	3	30	5	15
Quarter 4 2012–13	12	10	5	26	3	15
Quarter 1 2013–14	10	10	5	24	7	18
Quarter 2 2013–14	15	11	9	36	4	15

# Contaminated sites

**Figure 5.1. Number of sites reported and classified each period**

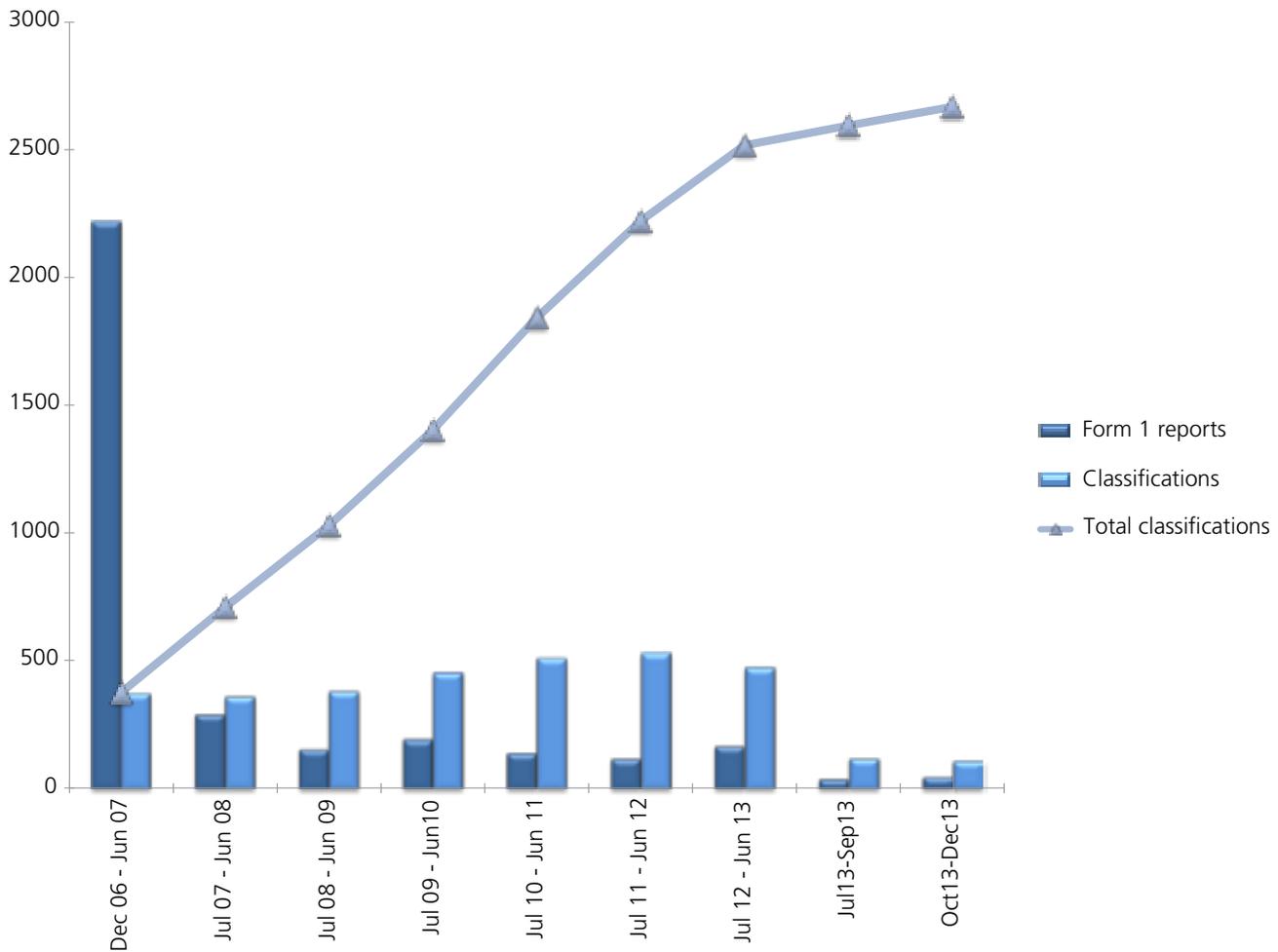
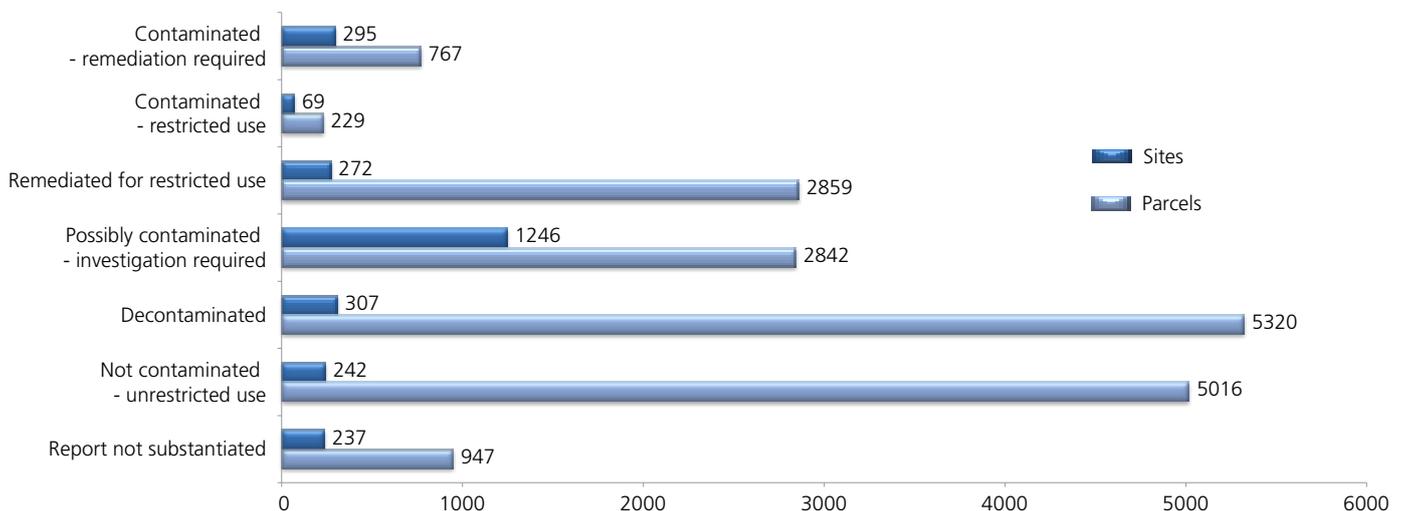


Figure 5.1 shows the number of sites reported and classified each financial year until June 2013, and quarterly since July 2013, as well as the steady increase in the total number of classified sites at the end of each period.

**Figure 5.2. Distribution at 31 December 2013 of classified sites and parcels across the seven classification categories.**



# 6. Environmental enforcement

## 6.1 Introduction

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

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

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

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

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

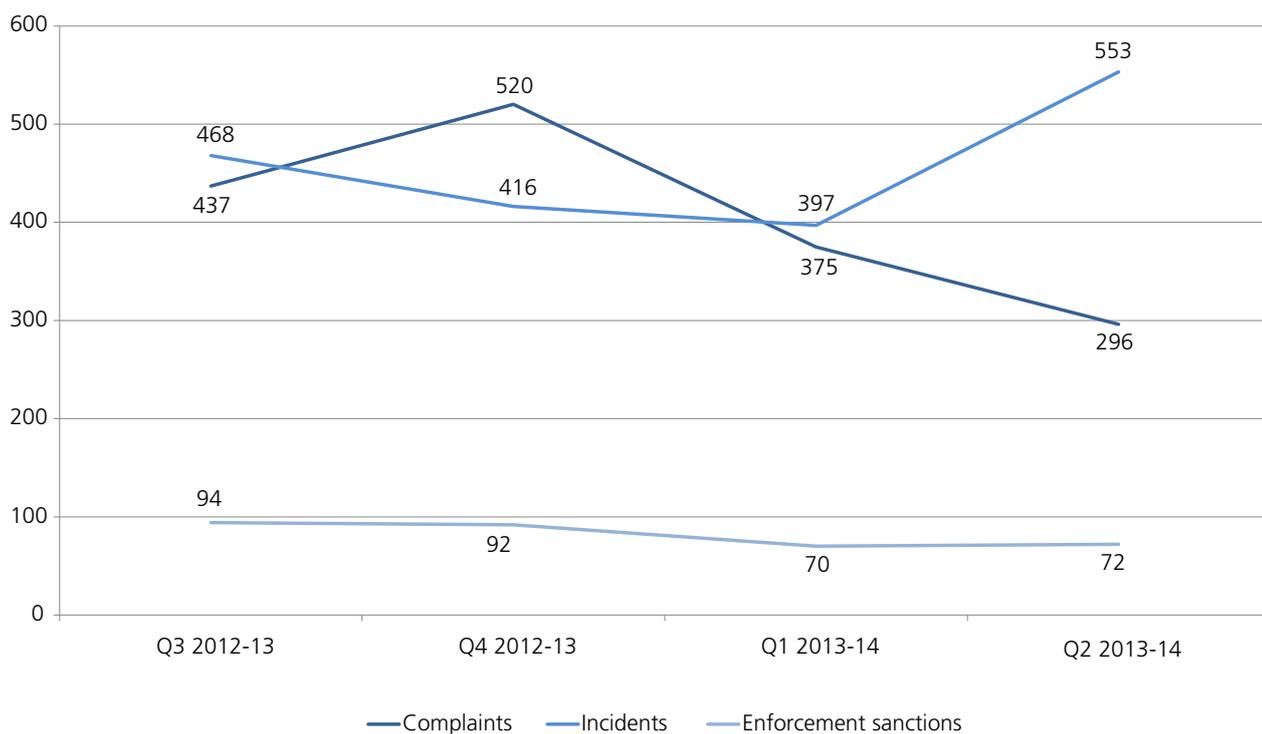
Note: The categorisation of complaints and incidents is currently under review. Categories and sub-categories of matters will vary from previous reports. A complaint is a report made to DER by a member of the public of an environmental event. This includes events such as strong odours, high amounts of smoke, noise pollution, illegal dumping or fish kill in a waterway.

## 6.2 Performance

**Table 6.1. Environmental complaints / incidents by DER region**

REGION	Quarter 3 2012–13	Quarter 4 2012–13	Quarter 1 2013–14	Quarter 2 2013–14
Christmas Island	3 / 4	2 / 2	1 / 10	1 / 6
Cocos (Keeling) Islands	0 / 0	0 / 0	0 / 2	0 / 0
Goldfields	7 / 59	6 / 74	5 / 57	3 / 55
Kimberley	2 / 8	6 / 15	4 / 8	2 / 45
Midwest	10 / 11	7 / 11	10 / 21	8 / 40
Perth	70 / 115	78 / 72	114 / 141	81 / 125
Pilbara	12 / 27	11 / 38	6 / 30	5 / 38
South Coast	24 / 65	20 / 49	21 / 34	19 / 54
South West	13 / 31	18 / 14	21 / 19	10 / 76
Swan	237 / 77	328 / 44	161 / 37	162 / 109
Warren	1 / 34	5 / 6	0 / 5	0
Wheatbelt	12 / 5	8 / 58	10 / 11	5 / 5
<b>TOTAL</b>	<b>391 / 436</b>	<b>489 / 383</b>	<b>356 / 372</b>	<b>296 / 553</b>

**Figure 6.1. Analysis—complaints, incidents and sanctions over previous four quarters**



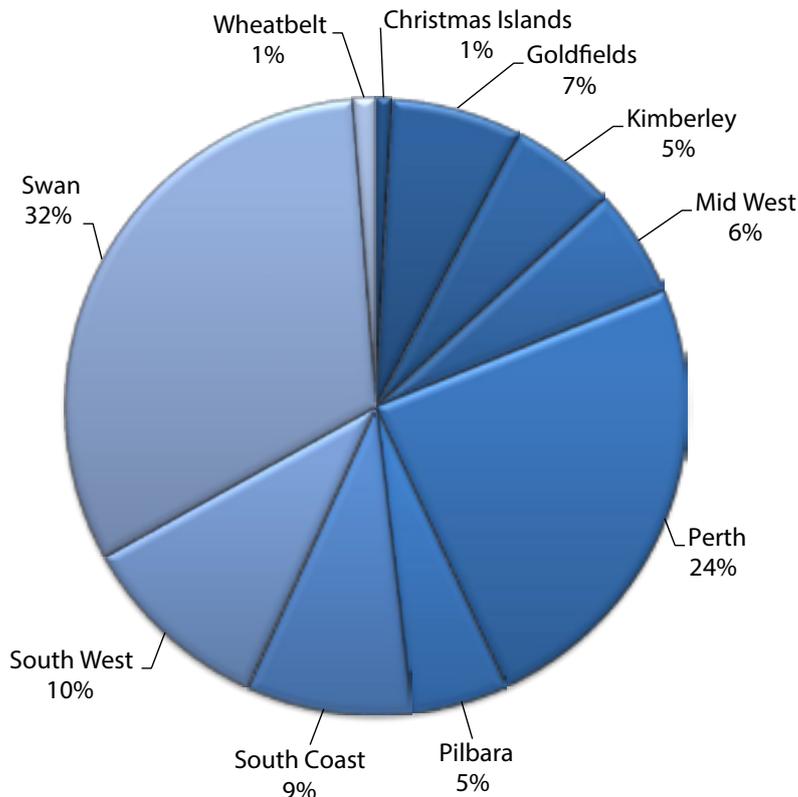
# Environmental enforcement

**Table 6.2. Environmental complaints/incidents reported by sub-category, Q2 2013–14**

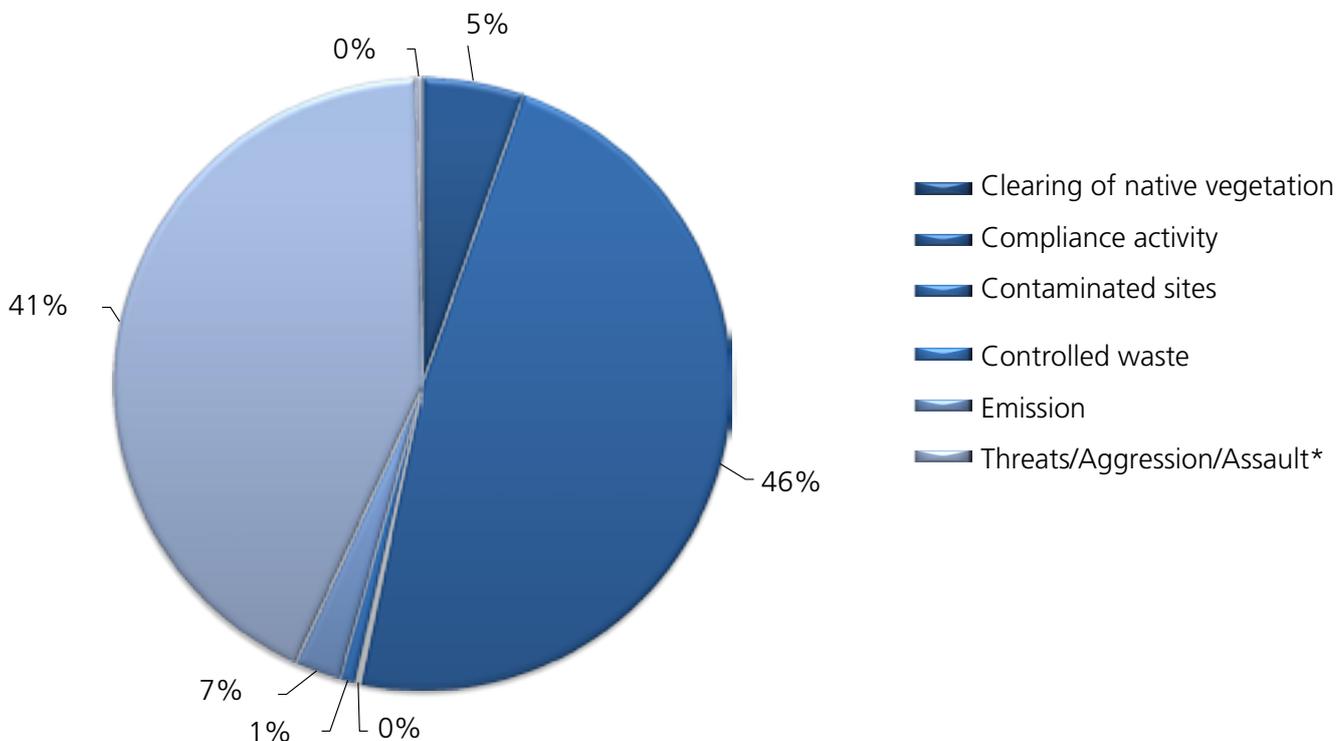
Category	Complaints received	Enforcement actions undertaken
Clearing of native vegetation	43	9
Burning	0	
Cutting	37	
Draining	1	
Grazing	3	
Poisoning	0	
Unspecified	2	
<b>Compliance activity</b>	<b>389</b>	<b>35</b>
Clearing permit	1	
Industry licence	322	
Industry registration	3	
Landfill levy	0	
Proactive compliance	10	
Statutory notice	0	
Works approval	4	
Unspecified	49	
<b>Contaminated sites</b>	<b>2</b>	<b>0</b>
<b>Controlled waste</b>	<b>7</b>	<b>1</b>
Disposal site	0	
Unauthorised disposal	0	
Unauthorised transport	6	
Waste generator	0	
Unspecified	1	
<b>Emission</b>	<b>348</b>	<b>27</b>
Air quality	7	
Dumping waste	17	
Dust	50	
Hazardous material	17	
Light	1	
Liquid waste	33	
Noise	20	
Odour	83	
Pesticide	3	
Smoke	12	
Solid waste	5	
Unauthorised discharge	61	
Unspecified	39	
<b>Threat/Aggression/Assault</b>	<b>3</b>	<b>0</b>
Risk rating: Moderate	3	
Unspecified	0	
<b>Other</b>	<b>57</b>	<b>0</b>
<b>TOTAL</b>	<b>849</b>	<b>72</b>

# Environmental enforcement

**Figure 6.2. Complaints by DER region, Q2 2013–14**



**Figure 6.3. Complaints as percentages, Q2 2013–14**



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

# Environmental enforcement

**Table 6.3. Enforcement sanctions undertaken in the previous four quarters<sup>1</sup>**

Type of action	Quarter 3 2012–13	Quarter 4 2012–13	Quarter 1 2013–14	Quarter 2 2013–14
Environmental field notice (EFN) <sup>2</sup>	64	46	41	42
Environmental protection notice (EPN) <sup>3</sup>	1	1	1	1
Infringement notices <sup>4</sup>	16	27	5	5
Stop work order <sup>5</sup>	0	0	0	0
Letter of education <sup>6</sup>	4	28	14	12
Letter of warning <sup>7</sup>	6	15	10	12
Statutory direction/notice <sup>8</sup>	0	1	1	0
Modified penalty <sup>9</sup>	0	0	0	0
Prosecutions <sup>10</sup>	3	1	3	4

- 1 Quarterly breakdown reflects the sanctions undertaken by the end of each quarter, on matters received during the quarter.
- 2 An environmental field notice is a non-statutory written notice of an offence. An EFN instructs the recipient to take immediate remedial actions.
- 3 An environmental protection notice is a statutory notice issued pursuant to section 65 of the *Environmental Protection Act 1986*.
- 4 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.
- 5 A stop work order is a statutory order made by the Minister pursuant to section 69 of the *Environmental Protection Act 1986*.
- 6 A letter of education is non-statutory advice to a person or business reminding them of their responsibilities under the *Environmental Protection Act 1986*.
- 7 A letter of warning is a non-statutory notice to an offender that a legislative breach has occurred and been noted on record.
- 8 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.
- 9 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.
- 10 A DER prosecution action commences when a complaint is made (or sworn) that an entity has committed an offence under the legislation.

# Environmental enforcement

**Table 6.4. Enforcement actions undertaken by corresponding financial year quarter**

Type of action	Number of actions undertaken by quarter <sup>11</sup>			
	2010–11 Q2	2011–12 Q2	2012–13 Q2	2013–14 Q2
EFN	36	72	81	42
EPN	0	0	2	1
Email	520	525	806	587
Further investigations	148	111	92	107
Infringement notices	5	13	11	5
Letter	80	158	206	201
Letter of education	2	9	10	12
Letter of warning	23	9	15	12
Licence review/amendment <sup>12</sup>	3	5	4	2
Modified penalty brief	1	0	0	0
Phone call	329	508	586	721
Prescribed action <sup>13</sup>	3	2	2	0
Prosecution	3	2	6	4
Provide advice	1	5	1	2
Site inspection	80	79	141	169
Site visit	113	169	110	106
Statutory direction/notice	1	2	2	0
Stop work order	0	0	0	0
<b>Prosecutions Q2 2013–14</b>				
Pending prosecutions				10
Current prosecutions before court				9

11 Quarters 2 for 2010–11, 2012–13 and 2012–13 include actions/sanctions undertaken by the Swan River Trust (SRT). Following machinery of government changes and the establishment of DER on 1 July 2013, Quarter 2 figures for 2013–14 do not include actions/sanctions undertaken by SRT.

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

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

**Table 6.6. Native vegetation regulation activity, Q2 2013–14**

Activity	Number
Vegetation conservation notice (VCN) <sup>14</sup>	0 (40 Active)
Clearing applications	104
Clearing approvals	107
Letters of warning	2
Prosecutions	0

<sup>14</sup> A vegetation conservation notice is a statutory notice given under section 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.

# 7. Contact details

## 7.1 Department of Environment Regulation

### Physical address:

Level 4, 168 St Georges Terrace  
Perth, Western Australia

### Postal address:

Locked Bag 33 Cloisters Square  
PERTH WA 6850  
Australia

### Direct

P: +61 8 6467 5000  
F: +61 8 6467 5562  
E: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)  
W: [www.der.wa.gov.au](http://www.der.wa.gov.au)

### Regional locations

#### South Coast Region

120 Albany Highway, ALBANY WA 6330  
P: +61 8 9842 4567  
F: +61 8 9841 7105  
E: [industryregsalbany@der.wa.gov.au](mailto:industryregsalbany@der.wa.gov.au)

#### Pilbara Region

Lot 3 Mardie/Anderson Roads, Karratha LIA 6714  
PO Box 835 Karratha WA 6714  
P: +61 8 9182 2000  
F: +61 8 9144 2000  
E: [industryregpilbara@der.wa.gov.au](mailto:industryregpilbara@der.wa.gov.au)

#### Goldfields Region

32 Brookman Street, Kalgoorlie WA 6430  
PO Box 10173 Kalgoorlie WA 6433  
P: +61 8 9080 5555  
F: +61 8 9021 7831  
E: [kalgoorlie@der.wa.gov.au](mailto:kalgoorlie@der.wa.gov.au)

#### Swan Region

181-205 Davy Street, Booragoon WA 6154  
Locked Bag 33, Cloisters Square, Perth 6850  
P: +61 8 9333 7510  
E: [swanindustryreg@der.wa.gov.au](mailto:swanindustryreg@der.wa.gov.au)

#### Kimberley Region

Lot 248 Ivanhoe Road  
PO Box 942 Kununurra, WA 6725  
P: +61 8 6168 4218  
F: +61 8 9168 2179  
E: [kununurra@der.wa.gov.au](mailto:kununurra@der.wa.gov.au)

#### South West Region

Cnr of Dodson Road and South West Highway,  
Bunbury WA 6230  
PO Box 1693, Bunbury WA 6231  
P: +61 8 9725 4300  
E: [SWIRAdmin@der.wa.gov.au](mailto:SWIRAdmin@der.wa.gov.au)

#### Midwest Region

Level 1, 201 Foreshore Drive,  
Geraldton WA 6530  
PO Box 72, Geraldton WA 6531  
P: +61 8 9964 0946  
E: [geraldtonIR@der.wa.gov.au](mailto:geraldtonIR@der.wa.gov.au)

#### Wheatbelt Region

75 York Road, Northam WA 6401  
P: +61 8 9621 3400  
F: +61 8 9621 3410  
Email: [wheatbeltIR@der.wa.gov.au](mailto:wheatbeltIR@der.wa.gov.au)

## 7.2 Quarterly reports

### Approvals summary

Principal Policy Manager  
P: 6467 5103  
E: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)

### Works approvals and licences

Manager, Industry Regulation Licensing  
P: 6467 5233  
E: [industry.regulation@der.wa.gov.au](mailto:industry.regulation@der.wa.gov.au)

### Environmental compliance

Manager, Industry Regulation Compliance  
P: 6467 5371  
E: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)

### Native vegetation clearing permits

Manager, Native Vegetation Conservation  
P: 6467 5022  
E: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)

### Environmental enforcement

Senior Investigator / Analyst  
P: 6467 5110  
E: [info@der.wa.gov.au](mailto:info@der.wa.gov.au)

### Contaminated sites

Manager, Contaminated Sites  
P: 9333 7595  
E: [contaminated.sites@der.wa.gov.au](mailto:contaminated.sites@der.wa.gov.au)