

Report on the administration of the *Environmental Protection Act 1994*

(reporting period 1 July 2022 to 30 June 2023)

Introduction

The object of the *Environmental Protection Act 1994* (the EP Act) is to protect Queensland's environment while allowing for development that improves the total quality of life, now and in the future, in a way that maintains the ecological processes on which life depends (ecologically sustainable development).

Section 546A of the EP Act requires that within four months after the end of each financial year, the chief executive must give to the Minister a report on the administration of this Act for the year.

Section 546A(2) of the EP Act requires the Minister to include a statement in the report about requests received by the Minister to prepare environmental protection policies. The Minister received nil requests for the 2022–23 financial year.

The EP Act is jointly administered by the Department of Environment and Science (DES) as the chief executive, the Department of Agriculture and Fisheries (DAF), the Department of Resources (Resources) and local governments as relevant administering authorities who have either delegated or devolved powers. Table 1 summarises the major EP Act activities and identifies the administering authority and its areas of responsibility.

Table 1: Administration of activities under the EP Act by relevant administration

Activities under the EP Act	DES	DAF	Resources	Local Governments
Changes to the EP Act and subordinate legislation	✓			
Administration of Environmentally Relevant Activities (ERAs)	✓	✓	✓	✓
Contaminated land management	✓			
Reports about contraventions of the EP Act	✓	✓		✓
Actions taken to enforce the EP Act	✓	✓		✓

Local governments are an important administering authority under the EP Act and their contribution to the administration of the EP Act is appreciated. While this report does not include data from local government, general reference is made to their contribution to the administration of the EP Act.

This report contains information on the following topics for each state administering authority:

1. Administration of ERAs.
2. Contaminated land management.
3. Reports about contraventions of the EP Act.
4. Actions taken to enforce the EP Act.
5. Reporting requirements.

1. Administration of Environmentally Relevant Activities (ERAs)

The EP Act defines three types of ERAs:

- a) Agricultural ERAs include sugar cane cultivation, banana cultivation and beef cattle grazing carried out on a commercial basis on land in the Great Barrier Reef catchment.
- b) Resource activities include:
 - geothermal activities
 - mining activities (exploration, extraction, rehabilitation and similar activities) authorised under the *Mineral Resources Act 1989*
 - petroleum and gas activities authorised under the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum (Submerged Lands) Act 1982*
 - greenhouse gas storage activities authorised under the *Greenhouse Gas Storage Act 2009*.
- c) Prescribed ERAs are other industrial or commercial activities that may release contaminants with the potential to cause environmental harm (excluding those which are part of a mining, petroleum or gas project).

Both DAF and local governments undertake tasks in relation to the administration and enforcement of those prescribed ERAs delegated or devolved to them, including:

- assessing, deciding, conditioning, amending, transferring, suspending and cancelling environmental authorities (EAs) and the issuing of temporary emissions licences (TEs)
- requiring and assessing environmental evaluations to assess environmental compliance
- issuing environmental enforcement notices or directions
- invoicing and collecting annual fees, application fees and outstanding debts.

Resources handles the initial processing of some applications for ERAs that are resource activities.

The number and type of EAs administered by DES and other state administering authorities are summarised in this report.

1.1 Agricultural ERAs

Beef cattle graziers and sugar cane and banana growers in the Burnett Mary, Fitzroy, Mackay / Whitsunday, Burdekin and Wet Tropics regions must now comply with commodity specific agricultural ERA standards (i.e. minimum practice standards). The standards took effect over three years from 1 December 2019 based on water quality priorities for commodities and regions. The last requirements commenced on 1 December 2022.

Standards do not apply to the Cape York region as water quality targets are being met in that region.

EAs issued for prescribed ERA agricultural activities are listed under Schedule 2 of the Environmental Protection Regulation 2019 (EP Regulation) and are captured in Section 1.3 of this Report as part of all the prescribed ERAs regulated by DES and DAF.

1.2 Resource activities

All resource activities require an EA under the EP Act to operate (with the exception of prospecting and certain small-scale mining activities). Some higher risk activities also require an environmental impact statement (EIS) as part of the approval process.

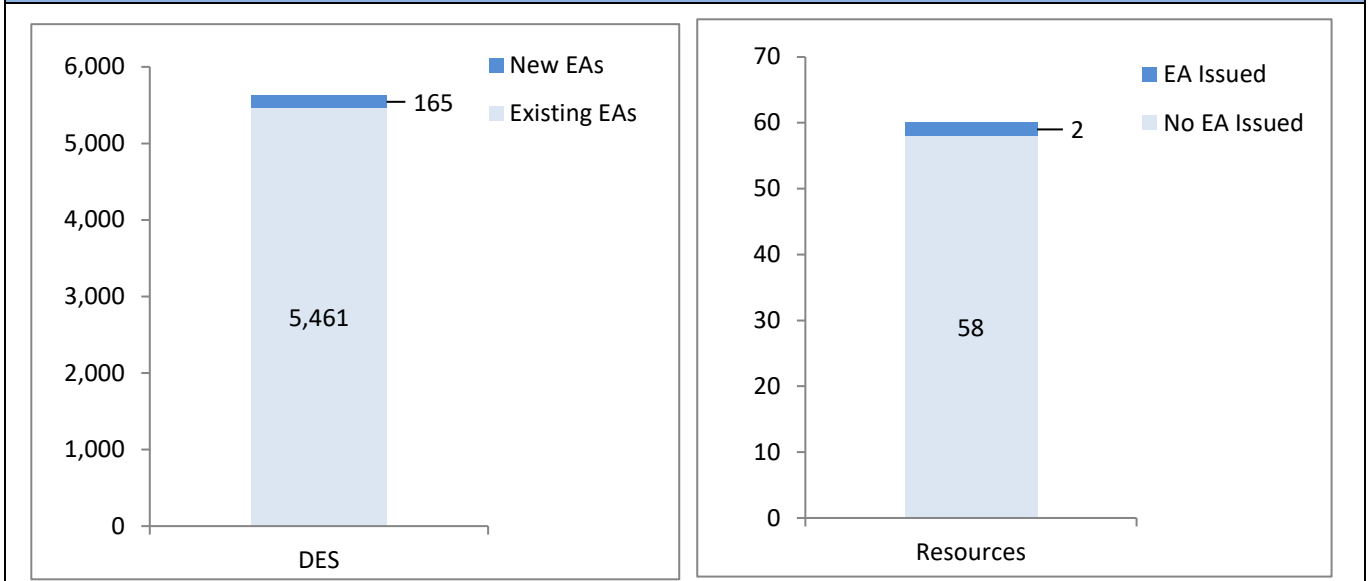
DES administers all resource activities, excluding small-scale mining activities, which are administered by Resources.

Figure 1 gives the number of new and existing EAs for 2022-23 issued by DES. New EAs are those that were issued *after* 30 June 2022 and are still current at 30 June 2023. Existing EAs are those *current* at 30 June 2022 and that are still current at 30 June 2023.

The total number of EAs for resource activities as at 30 June 2023 is 5,626 (165 new and 5,461 existing).

Under powers delegated by DES, Resources has issued two EAs for mining claims during the 2022-23 financial year. Figure 1 also outlines the number of small-scale mining claim tenure approvals that do not require an EA. These small-scale mining claim tenures do not require an EA but must adhere to conditions outlined in the EP Regulation.

Figure 1: Environmental authorities for resource activities for 2022–23



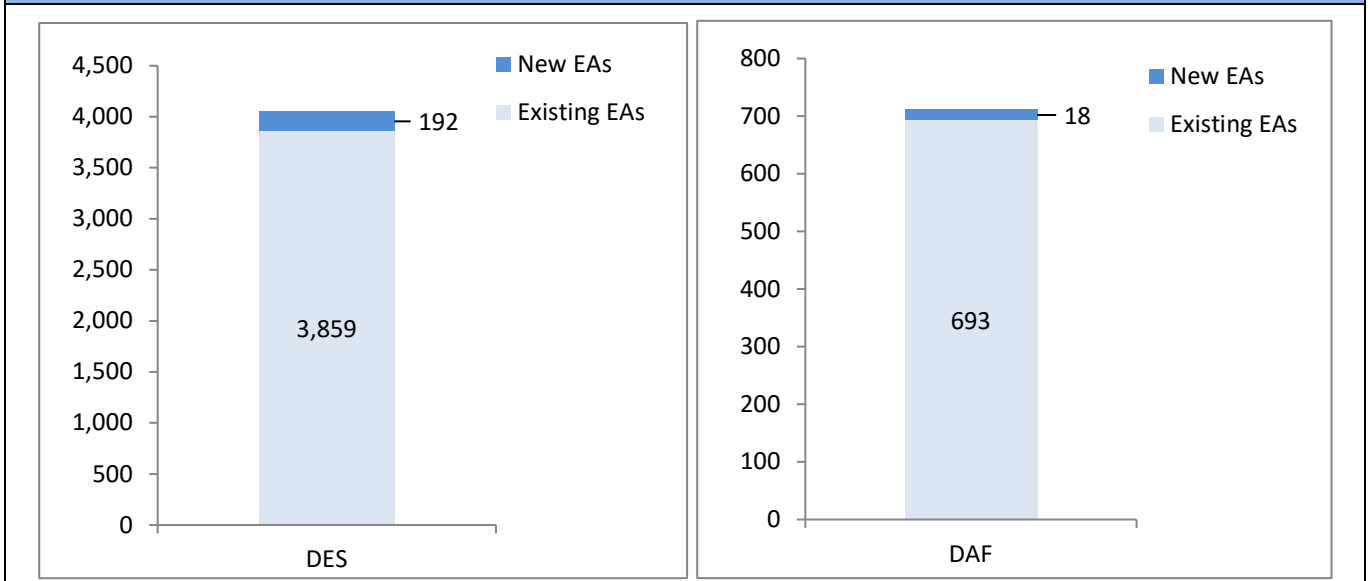
1.3 Prescribed ERAs

Prescribed ERAs are activities other than resource ERAs that have the potential to cause harm to the environment. They are listed in Schedule 2 of the EP Regulation.

To operate an ERA, an EA issued under the EP Act is required. Figure 2 gives the total numbers of new and existing EAs for prescribed ERAs for 2022–23 by all relevant State administering authorities. New EAs are those that were issued *after* 30 June 2022 and are still current at 30 June 2023. Existing EAs were those *current* at 30 June 2022 and that are still current at 30 June 2023.

The total number of EAs for prescribed ERAs current at 30 June 2023 is 4,051 (3,859 existing and 192 new) for DES and 711 for DAF (693 existing and 18 new).

Figure 2: Environmental authorities for prescribed ERAs for 2022–23



1.4 Environmental impact statements (EIS)

The EIS process is set out in Chapter 3 of the EP Act. Assessment through the EIS process may be required by legislation, requested by the administering authority or undertaken voluntarily by the applicant.

The purpose of an EIS process is to identify and assess the potential adverse and beneficial environmental, economic and social impacts of the project; and the effectiveness of the management, monitoring, planning and other measures proposed to avoid and minimise any adverse impacts of the project.

No EIS assessments under the EP Act were completed in 2022–23. Three EIS applications were declared a coordinated project by the Office of the Coordinator-General requiring them to be assessed by DES under the *State Development and Public Works Organisation Act 1971*, with further information provided in Table 2.1. There were five EIS assessments under the EP Act in progress as at 30 June 2023, with further information provided in Table 2.2.

Table 2.1: EIS applications declared a coordinated project by the Office of the Coordinator-General to be assessed by DES under the *State Development Public Works Organisation Act 1971*

Project name	Type of project	Status as at 30 June 2023
Big-T Pumped Hydropower Energy Storage project	Pumped hydropower energy storage	Draft EIS being prepared by proponent
Mount Rawdon Pumped Hydro project	Pumped hydropower energy storage	Draft EIS being prepared by proponent
Peak Downs Mine Continuation project	Open cut coal mine	Office of the Coordinator-General finalising Terms of Reference after public notification

Table 2.2: EIS assessments under the EP Act in progress in 2022–23

Project name	Type of project	Status as at 30 June 2023
Aurukun Bauxite project	Open-cut bauxite mine	Proponent preparing amended EIS
Baralaba South project	Open-cut coal mine	Proponent preparing amended EIS
Lake Vermont Meadowbrook project	Open-cut and underground coal mine	Proponent preparing amended EIS and response to submissions
Saraji East Mining Lease project	Underground coal mine	Proponent preparing amended EIS and response to submissions
Surat Basin Carbon Capture and Storage Project	Carbon capture and storage project	Proponent preparing amended EIS and response to submissions

1.5 Suitable operator registration

It is a requirement of the EP Act that a person carrying out an ERA be registered as a suitable operator. An EA cannot be approved unless all of the proposed EA holders are registered suitable operators. DES is responsible for approving suitable operators and adding their details to the online register of suitable operators, available online at <https://apps.des.qld.gov.au/public-register/search/rso.php>. Table 3 provides the total number of suitable operators registered as at 30 June 2023. It also provides the number received during 2022–23 and the various outcomes as at 30 June 2023.

Table 3: Suitable operator registration 2022–23

Action	2022–23
Current as at 30 June 2022	13,132
Received	644
Approved	641
Withdrawn	3
Refused	0
Cancelled	0
Under assessment	0

2. Contaminated land

DES manages two registers for contaminated land; the Environmental Management Register (EMR) and the Contaminated Land Register (CLR):

- The EMR is a land-use planning and management register which provides information on historic and current land use. It records land parcels where a notifiable activity is (or has been) conducted or land parcels which are contaminated by a hazardous contaminant. The site may be managed under a site management plan.
- The CLR is a register of land parcels with proven contamination of the land that is causing, or may cause, serious environmental harm. Land is recorded on the CLR when scientific investigation shows it is contaminated and action needs to be taken to remediate the land to prevent serious environmental harm.

In order to amend the details of a land parcel listed on the EMR or CLR, a contaminated land investigation document must be prepared by a suitably qualified person and then certified by an approved contaminated land auditor. The site investigation report details the extent of any contamination, includes a suitability statement advising the appropriate land uses for the property, and determines whether:

- the contamination is best managed under the conditions of a site management plan to achieve the proposed land use;
- the contamination was either insignificant or remediated successfully and the land can be removed from the EMR or CLR; or
- the contamination will not affect the current or proposed land use and the land is fit for the stated use.

Searches to find out if a particular land parcel is listed on the EMR or the CLR can be conducted online at <https://products.des.qld.gov.au/shopping/home>.

Table 4 provides both a count of land parcels listed on the EMR and CLR registers and describes the type and number of contaminated land management activities for 2022–23.

For land parcels listed on the EMR, these are classified as either base parcels or new parcels. Base parcels are the original lot and plans that are listed on the EMR. Over time, base parcels may be the subject of administrative dealings such as subdivisions, which means that any new lot and plans created from the base parcel assumes the original EMR listing of the base parcel, so as to ensure the contamination status remains over the subsequent subdivisions. New listings occur when base parcels or lot and plans are listed as a consequence of the establishment of a notifiable activity or that a hazardous contamination exists following the statutory processes outlined within the EP Act.

Table 4: Contaminated land sites and management activities undertaken for 2022–23

Contaminated land parcels	2022–23
Number of land parcels on the CLR as at 30 June 2023*	13
Number of <i>base</i> land parcels on the EMR as at 30 June 2023	29,190
Number of <i>new</i> land parcels on the EMR as at 30 June 2023	192,390
Number of <i>total</i> land parcels on the EMR as at 30 June 2023	221,580
Contaminated land management activities	2022–23
Land parcels removed from the CLR or EMR	20
Site management plans approved	1
Soil disposal permits issued	154
Searches of the environmental management and contaminated land registers	78,088

3. Environmental incidents

The responsibility for managing environmental incidents is shared between the Queensland Government and local governments. The Queensland Government responds to reports regarding serious and material environmental harm and the ERAs it administers (including ERAs operated by local governments).

Where a report of an environmental incident is received by DES, it will respond directly or, if necessary, coordinate the response in conjunction with other Queensland Government agencies or local governments. Some incidents of environmental significance (such as oil spills from ships) may be covered by other legislation and be administered by other bodies. DES provides a support role for these incidents.

3.1 Community Reports

The administration and enforcement of the following matters have been devolved to local governments under the EP Regulation:

- environmental nuisance
- noise standards
- prescribed water contamination, and
- certain ERAs administered by local government.

DAF responds to reports about the ERAs it administers including dairy farming, livestock holding facilities and intensive animal feedlotting.

DES responds to reports about the remaining ERAs that are not devolved to local government and reports of serious and material environmental harm that are not associated with an ERA.

Responses to community reports can include issuing enforcement actions requiring measures to be taken, issuing a penalty infringement notice (PIN), or prosecution. Section 4 of this report has details of enforcement undertaken by the State in 2022–23.

Since July 2018, DES has been responding to a number of community concerns about the waste industry and odour issues prevalent in and around the Swanbank community. Community members were encouraged to provide reports on odour and other nuisance issues. During 2022–23, DES received 4,689 individual community reports in relation to waste operations undertaken in Swanbank. This figure is included within the total number of community reports received by DES in Figure 3.

Figure 3 gives the number of community reports received by the relevant State administering authorities. A break-down by type of report to DES is shown in Figure 4. Figure 5 details calls received afterhours by the Pollution Hotline.

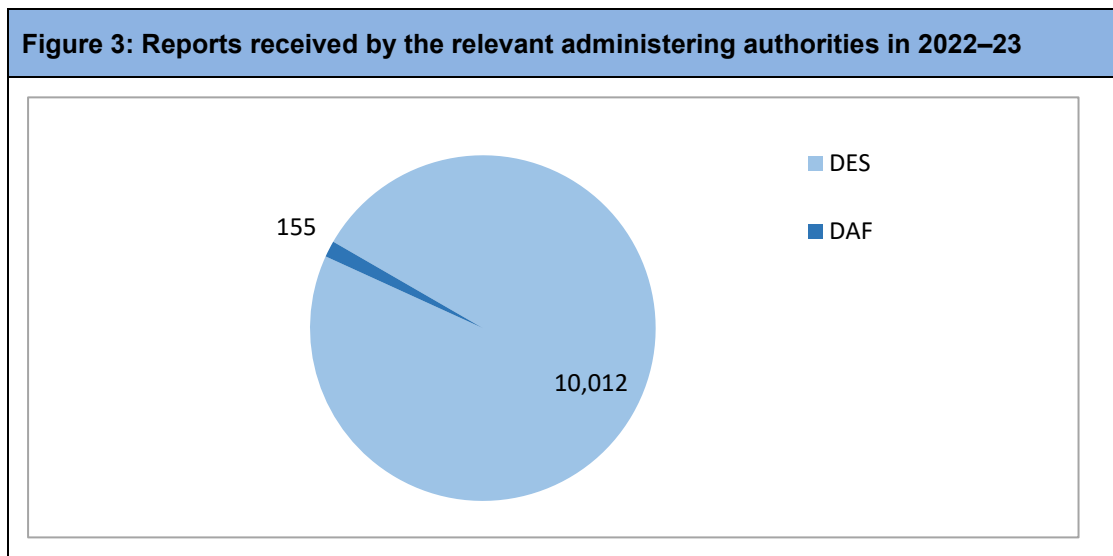


Figure 4: Breakdown of community reports received by DES in 2022-23

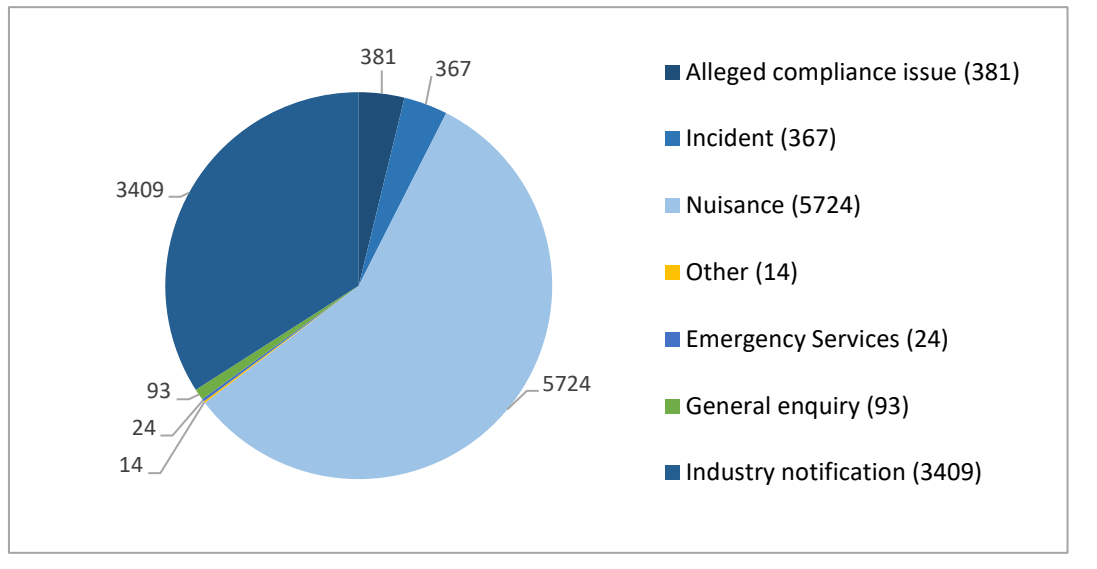
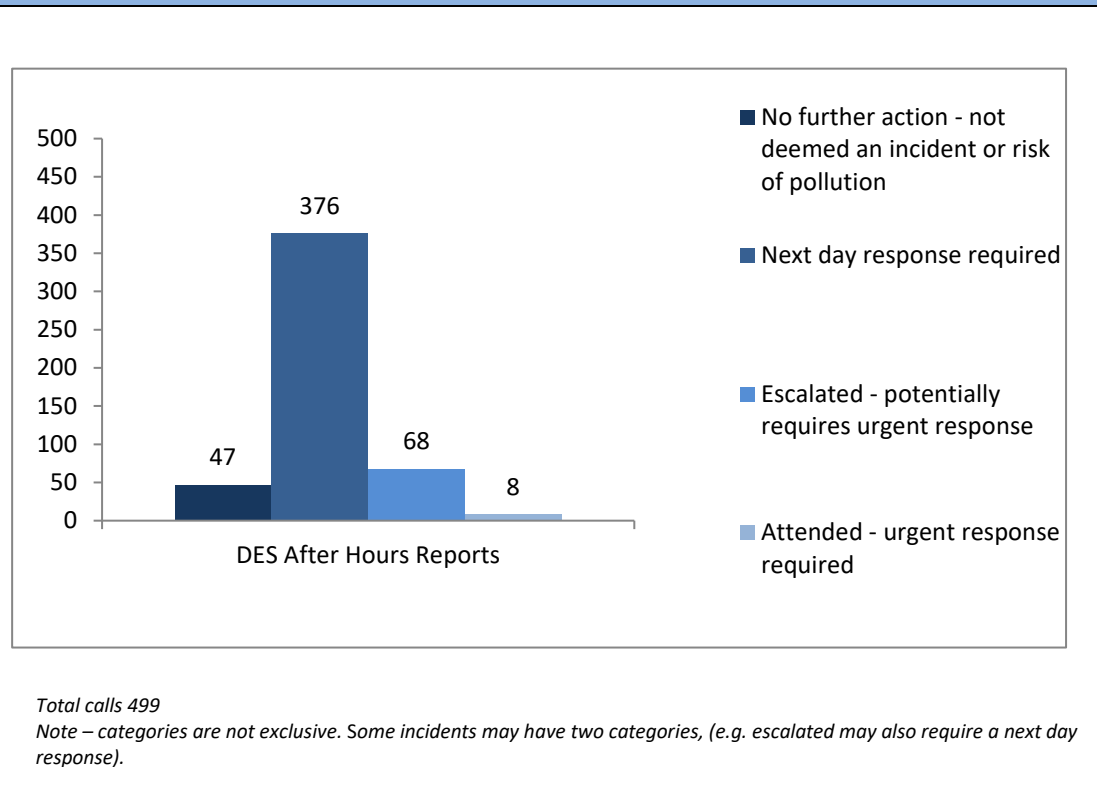


Figure 5: After hours incident reports received by DES in 2022-23



3.3 Temporary Emissions Licence (TEL)

The holder of an EA may apply for a TEL. A TEL is a permit that temporarily allows the release of a contaminant into the environment in response to an event, either natural or caused by sabotage, that was not foreseen (or did not have conditions applied because there was a low probability of it occurring) when particular conditions were imposed on an environmental authority or transitional environmental program (an applicable event).

No TELs were issued by DAF in 2022–23.

Table 5 shows the number of TELs issued by DES for 2022–23.

Table 5: Temporary emissions licence applications 2022–23

Temporary emissions licence applications	2022–23
Number of applications received	10
Number of applications approved	10
Number of applications refused	0
Number of applications invalid	0

4. Enforcement

DES and DAF can undertake a range of enforcement actions in order to reduce the risk of environmental harm or to remedy harm done to the environment.

Clean-up notices can be issued to a person or organisation that is prescribed as responsible for a contamination incident. The notice will require various actions to be undertaken to restore or rehabilitate the environment, or assess the nature and extent of the environmental harm through monitoring and sampling. If the recipient does not comply with the notice, the administering authority can conduct the clean-up and use a cost recovery notice to recover the costs from the responsible person.

Direction notices can be issued to a person or organisation if contravention of a prescribed provision has occurred, or is likely to occur, and requires the recipient to remedy the contravention.

An **emergency direction** can be issued:

- where an emergency is considered to exist; and
- either human health or safety is threatened, or serious or material environmental harm has been or is likely to be caused; and
- urgent action is required to remedy the situation.

Enforceable undertakings are a voluntary binding agreement between the relevant state administering authority and the person or company that is alleged to have contravened the EP Act. It is a tool capable of being entered into as an alternative to prosecution and specifies the obligations and terms to be undertaken to secure compliance with the EP Act and enhance the protection of the environment.

An **environmental evaluation** of an activity or event is undertaken to determine the source, cause or extent of environmental harm being caused; or the extent of environmental harm likely to be caused by the activity or event; or the need for further enforcement action in relation to the activity or event.

Environmental protection orders are issued to ensure a person or organisation complies with the EP Act. The order may require the recipient to stop or start a stated activity for a stated period or duration.

A **transitional environmental program** is a specific program that, when complied with, achieves compliance with the EP Act for the activity to which it relates.

Penalty infringement notices can be issued for minor breaches of the EP Act or of a condition of an approval, and require the recipient to pay a fine.

Figure 6 summarises compliance actions under the EP Act for 2022–23 by the relevant State administering authority.

Table 6 provides a breakdown of the number of PINs issued under the EP Act for 2022–23 by the relevant State administering authority based on the type of offence.

Prosecutions can be undertaken for more serious offences and are summarised in the next section.

Local government can use the same statutory notices (other than the clean-up and cost recovery notices) as well as prosecutions, restraint orders and warrants. Figures for local government are not provided in this report.

Figure 6: Enforcement actions undertaken by the relevant administering authorities for 2022–23

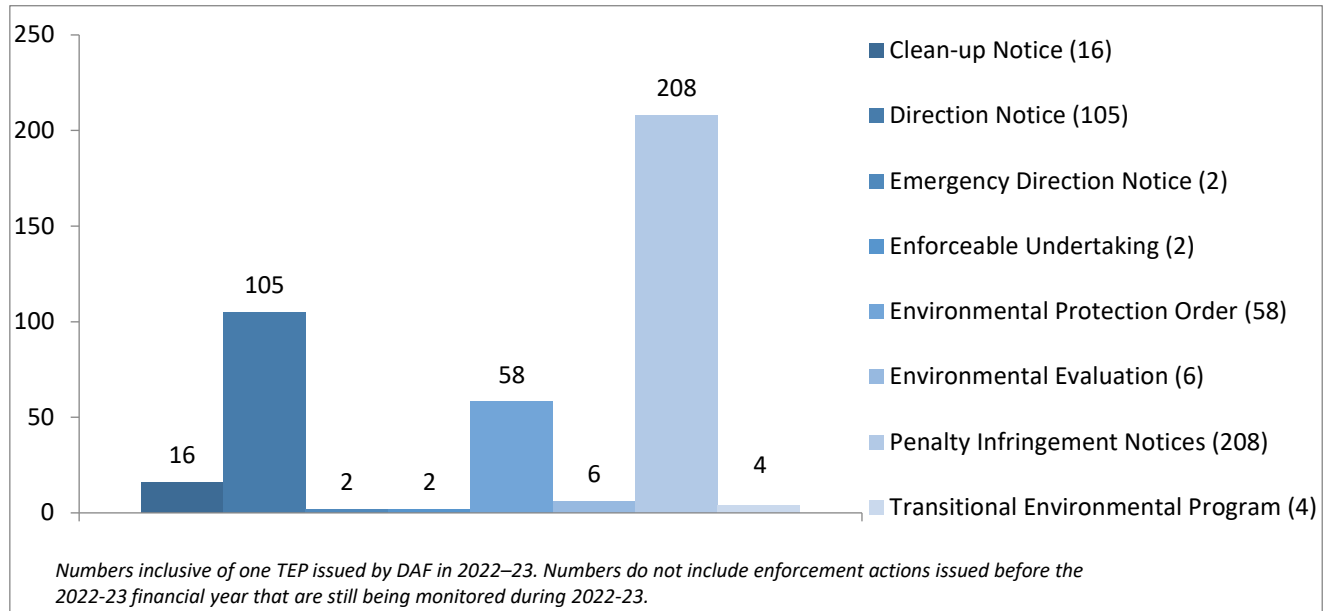


Table 6: Breakdown of the number of infringement notices issued by relevant State administering authority based on the offence type for 2022–23

No. PINs	Description
DES Issued PINs under the EP Act	
30	Failure to apply for a new estimated rehabilitation cost (ERC) decision – corporation
7	Failure to submit annual return – corporation
5	Failure to submit annual return – individual
1	Fail to comply with conditions of a licence – corporation
3	Contravention of an Environmental Protection Order – corporation
2	Contravention of an Environmental Protection Order – individual
3	Failure to comply with a direction notice – individual
1	Failure to comply with a direction notice – corporation
2	Fail to comply with clean-up notice – corporation
33	Carry out ERA without an authority for that ERA – corporation
12	Carry out ERA without an authority for that ERA – individual

86	Contravention of condition of environmental authority – corporation
1	Holder contravenes an environmental authority even if another person acting under authority commits an offence – corporation
1	Carry out or allow the carrying out of activities without a Progressive Rehabilitation and Closure Plan schedule for activity – corporation
1	Contravene a condition of an approval of a transitional environmental program – corporation
1	Unlawfully cause material environmental harm – corporation
1	Unlawfully cause an environmental nuisance – corporation
1	Unlawful deposit of prescribed water contaminants in waters etc. if the deposit or release is done other than wilfully – individual
10	Unlawful deposit of prescribed water contaminants in waters etc. if the deposit or release is done other than wilfully – corporation
3	Place contaminant where environmental nuisance may be caused – corporation
3	Fail to comply with the agricultural ERA standard, other than by failing to make or keep a record – individual
DES Issued PINs under EP Regulation	
No. PINs	Description
1	Trackable waste given to unlicensed transporter – individual
208	Total
DAF Issued PINs	
0	Penalty infringement notices
0	Total

4.1 Prosecutions

Prosecutions may be progressed in the courts where an environmental offence is believed to have been committed and DES considers that such action is warranted and is consistent with its enforcement guidelines.

DES' Litigation unit finalised eight prosecutions with a conviction by a court in 2022–23, involving offences under the EP Act and subordinate legislation. These prosecutions resulted in fines totalling \$332,000 and \$73,884 in legal, investigation and court costs. A breakdown of information on the prosecutions is provided in Table 7.

Table 7: Prosecutions by relevant State administering authority for 2022–23

Matter Reference	Court date	Brief Description	Penalty	Costs
LIT1979	15 July 2022	Two charges of contravening a condition of an environmental authority, contrary to section 430(3) of the <i>Environmental Protection Act 1994</i> .	\$60,000 fine No conviction recorded	\$1,500 legal costs \$5,527.20 investigation costs
LIT2014	3 August 2022	One charge of carrying out an environmentally relevant activity without holding, or acting under, an environmental authority, contrary to section 426(1) of the <i>Environmental Protection Act 1994</i> .	\$5,000 fine No conviction recorded	\$609 investigation costs
LIT2002	19 August 2022	Two charges of contravening a condition of an environmental authority, contrary to section 430(3) of the <i>Environmental Protection Act 1994</i> .	\$57,000 fine No conviction recorded	\$1,500 legal costs \$2,707.42 investigation costs
LIT1993	20 December 2022	Three offences of contravening an environmental protection order, contrary to section 361(2) of the <i>Environmental Protection Act 1994</i> . One offence of contravening a condition of an environmental authority, contrary to section 430(3) of the <i>Environmental Protection Act 1994</i> .	\$30,000 fine No conviction recorded	\$3,000 legal costs \$1,735 investigation costs
LIT0960	22 December 2022	One offence of causing material environmental harm, contrary to section 438(1) of the <i>Environmental Protection Act 1994</i> . Two offences of unlawfully disposing of contaminated soil, contrary to section 424(1) of the <i>Environmental Protection Act 1994</i> .	\$75,000 fine No conviction recorded	\$34,860 legal costs \$6,603 investigation costs
LIT2043	21 February 2023	One offence of carrying out an environmentally relevant activity without an environmental authority contrary to section 426(1) of the <i>Environmental Protection Act 1994</i> .	\$25,000 fine No conviction recorded	\$1,500 legal costs \$922.38 investigation costs
LIT1951	23 February 2023	Two offences of wilfully contravening an environmental protection order, contrary to	\$60,000 fine No conviction	\$6,250 legal costs

Matter Reference	Court date	Brief Description	Penalty	Costs
		section 361(1) of the <i>Environmental Protection Act 1994</i> .	recorded	\$3,623.39 investigation costs
LIT2048	12 May 2023	<p>One offence of taking protected plants contrary to section 89(1) of the <i>Nature Conservation Act 1992</i>.</p> <p>One offence of carrying out assessable development without a development approval contrary to section 163(1)(b) of the <i>Planning Act 2016</i>.</p> <p>One offence of wilfully and unlawfully depositing a prescribed water contaminant in waters contrary to section 440ZG(a)(i) of the <i>Environmental Protection Act 1994</i>.</p>	\$20,000 fine No conviction recorded	<p>\$750 legal costs</p> <p>\$2,695.38 investigation costs</p> <p>\$101.40 in court costs</p>
		TOTAL	\$332,000	\$73,884

4.2 Planning and environment court orders

Where environmental harm has been or is likely to be caused, the court may make a restraint order under the EP Act. Restraint orders may also be issued for a threatened or anticipated offence.

One restraint order was made by the Planning and Environment Court in 2022–23.

4.3 Warrants

Entry of premises is a sensitive issue that requires a balance between people's rights to privacy and the needs of an investigation. Authorised persons have powers of entry in a range of circumstances. When entry of premises is necessary, but not possible through the authorised person's powers, an authorised person may obtain a warrant from a magistrate to gain entry. A warrant allows an authorised person, with necessary and reasonable help and force, to enter a place and exercise those powers as provided for in the warrant.

Ten warrants were executed under the EP Act by relevant State administering authorities in 2022–23.