

**Annual report on the administration of the
*Environmental Protection Act 1994***

1 July 2019–30 June 2020

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 chief executive's report must include a statement about requests received by the Minister to prepare environmental protection policies and a brief statement of the reasons for refusing any request. The Minister received nil requests for the 2019–20 financial year.

The EP Act is jointly administered by the Department of Environment and Science (DES), the Department of Agriculture and Fisheries (DAF), the Department of Natural Resources, Mines and Energy (DNRME) and local governments. These entities have either delegated or devolved powers under the EP Act. 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	DNRME	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.

COVID-19 pandemic (Coronavirus)

In the 2019-20 financial year, the COVID-19 response has imposed restrictions on many licence holders as a result of the health directions. DES worked with licence holders to assist them during the crisis with a more flexible, risk-based approach to compliance and discussions of amendments to licence conditions where necessary. DES also worked with companies facing financial hardship to offer payment plans for fees. Changes to legislation have also been made, for example, to provide exemptions to compliance with certain conditions of an environmental approval.

1. Administration of ERAs

The EP Act defines three types of ERAs:

- a) Agricultural ERAs include cattle grazing, horticulture and cultivation of another crop (e.g. sugarcane) 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. These include:

- assessing, deciding, conditioning, amending, transferring, suspending and cancelling environmental authorities 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.

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

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

1.1 Agricultural ERAs

On 1 December 2019, new provisions commenced for agricultural ERAs. The previous requirement for an environmental risk management plan for certain cattle grazing activities in the Burdekin Dry Tropics catchment and sugarcane growing in the Wet Tropics catchment has been removed. The other provisions applying to Agricultural ERAs have been amended and replaced with the ability to apply commodity specific agricultural ERA standards (i.e. minimum practice standards) across the GBR catchment to manage potential water quality impacts. Agricultural ERA standards take effect when prescribed by regulation. Standards have been prescribed for sugarcane cultivation, banana cultivation and beef cattle grazing. These standards take effect over three years from 1 December 2019, across the Great Barrier Reef catchment based on water quality priorities for commodities and regions. Standards do not currently apply to the Cape York region as water quality targets were met for the region for 2017–18.

From 1 June 2021, prescribed ERA 13A (commercial cropping and horticulture activities in the GBR catchment) will be required to meet farm design standards, as the conditions of an environmental authority for new cropped land, and any agricultural ERA standard prescribed by regulation for the crop being cultivated.

1.2 Resource activities

All resource activities require an environmental authority (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 DNRME.

Figure 1 gives the number of new and existing EAs for 2019–20 issued by DES. Existing EAs are those current at 30 June 2019 and that are still current at 30 June 2020. New EAs are those that were issued after 30 June 2019 and are still current as at 30 June 2020.

The total number of EAs for resource activities as at 30 June 2020 is 4,896 (743 new and 4,153 existing).

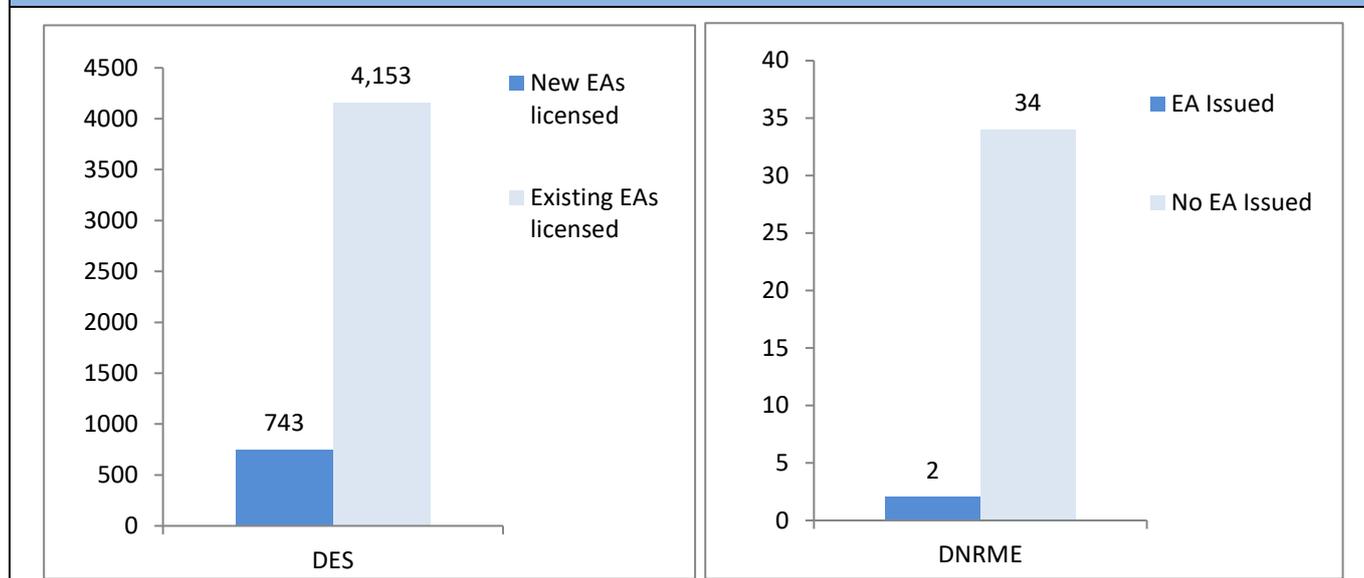
Under powers delegated by the EP Act, DNRME has issued two EAs for mining claims during the 2019–20 financial year. Figure 1 also outlines the number of small-scale mining claim tenure approvals that do not require an EA. These small-scale mining claim tenures do not require an EA but must adhere to conditions outlined in the

Environmental Protection Regulation 2019.

Of the 743 new EAs for resource activities approved by DES in the 2019-20 financial year, there are 129 EAs that have been granted, but have not yet taken effect. This can occur for any of the following reasons:

- If the EA states an event for it to take effect and the event hasn't taken place yet – EP Act s200 (1)(b).
- If the EA is for a resource activity and the relevant tenure hasn't been granted yet – EP Act s200 (2)(a).

Figure 1: Environmental authorities for resource activities for 2019–20



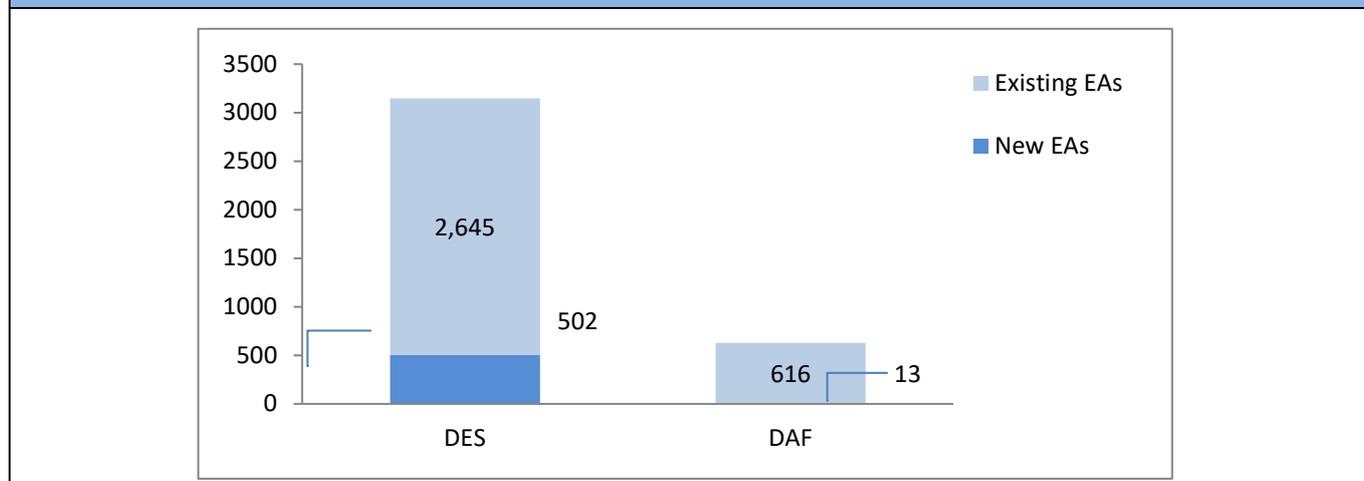
1.3 Prescribed environmentally relevant activities

Prescribed ERAs are activities, other than resource or agricultural ERAs that have the potential to cause harm to the environment. They are listed in Schedule 2 of the Environmental Protection Regulation 2019. A list of prescribed ERAs, by state administering authority, is available from the Queensland Government data site <https://data.qld.gov.au>.

To operate an ERA, an EA issued under the EP Act is required. Figure 2 gives the number of new and existing EAs for prescribed ERAs for 2019–20 by the relevant state administering authority. Existing EAs were those current at 30 June 2019 that are still current at 30 Jun 2020.

The total number of EAs for prescribed ERAs current at 30 June 2020 is 3,147 (502 new and 2,645 existing) for DES and 629 for DAF (13 new and 616 existing).

Figure 2: Environmental authorities for prescribed ERAs for 2019–20



1.4 Environmental impact statements

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

The purpose of an EIS 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 assessments by EIS under the EP Act were completed in 2019–20. One EIS application was withdrawn by the proponent. One EIS application was declared a co-ordinated project by the Office of the Coordinator-General and will now be assessed by EIS under the *State Development Public Works Organisation Act 1971*. There were 14 EIS assessments in progress as at 30 June 2020, with further information provided in Table 2.

Table 2: EIS assessments in progress in 2019–20

Project name	Type of project	Status as at 30 June 2020
Aurukun Bauxite Project	Open cut bauxite	DES to advertise the draft Terms of Reference
Baralaba South Project	Open cut coal mine	Proponent preparing amended EIS
Central Queensland Coal Project	Open cut coal mine	Proponent preparing response to public submissions on the EIS and amended EIS
Dawson West Project	Open cut and underground coal mine	Proponent to submit draft Terms of Reference
Ensham Life of Mine Extension Project	Underground coal mine expansion	Proponent to submit draft Terms of Reference
Galalar Silica Sand Project	Silica mine	Proponent to submit draft Terms of Reference
Galilee Gas Pipeline	Gas pipeline	Proponent to submit draft Terms of Reference
Isaac Downs Project	Open cut coal mine	Proponent preparing response to public submissions on EIS and amended EIS
Meadowbrook Project	Underground coal mine	Proponent preparing EIS
North Alpha Coal Project	Open cut coal mine	Proponent to submit draft Terms of Reference
Saraji East Mining Lease Project	Open cut coal mine	Proponent preparing an amended EIS
Saint Elmo Vanadium Project	Open cut vanadium mine	DES to make decision on amended EIS
Surat Basin Coal	Underground thermal coal mine	Proponent to submit draft Terms of Reference
Walton Coal Project	Open cut coal mine	Proponent preparing EIS

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. Table 3 provides the total number of suitable operators registered as at 30 June 2020 and the number of various application outcomes for 2019–20.

Table 3: Suitable operator registration 2019–20

Action	2019-20
Current as at 30 June 2020	11,280
Received	583
Approved	594
Withdrawn	4
Refused	0
Cancelled	3
Expired	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 sites where a notifiable activity is (or has been) conducted or sites which are contaminated and are being managed under a site management plan.
- The CLR is a register of sites 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 or manage the land.

In order to amend the details of a site listed on the EMR or CLR, a contaminated land investigation document must be prepared by a suitably qualified person and then certified by an auditor. The site investigation 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 is fit for the stated use.

Searches to find out if a particular site 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 sites listed on the EMR and CLR registers and describes the type and number of contaminated land management activities for 2019–20.

Table 4: Contaminated land sites and management activities undertaken for 2019-20

Contaminated land sites	2019–20
Number of sites on the EMR as at 30 June 2020	30,298
Number of sites on the CLR as at 30 June 2020*	12
Contaminated land management activities	2019–20
Sites removed from the CLR or EMR	132
Site management plans approved	46
Suitability statements issued	178
Soil disposal permits issued	171
Searches of the environmental management and contaminated land registers	70,700

* Cadastral information relating to base parcels (sites) can have linked new parcels because of administrative dealings over the base parcels. When the linked parcels are included, cadastral information indicates 16 lot on plans. This does not mean an increase in the number of sites as a new parcel will be part of the original contaminated land site.

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 *Environmental Protection Regulation 2019*:

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

DNRME does not have delegated responsibility for community reports about ERAs.

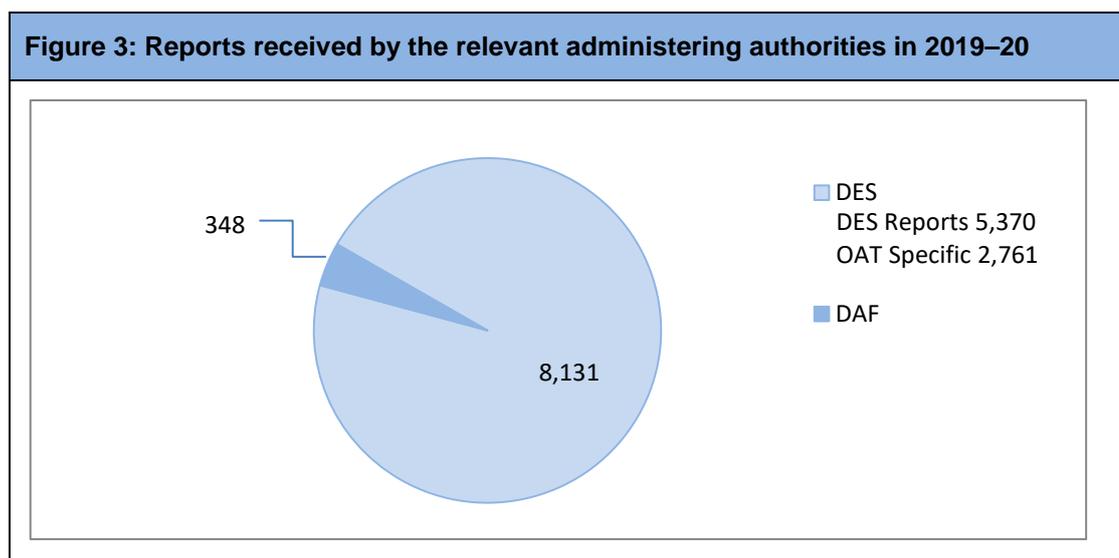
DAF responds to reports about the ERAs it administers including dairy farming, livestock holding facilities and intensive animal feeding.

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 orders requiring action to be taken, issuing a penalty infringement notice (PIN) or prosecution. Section 4 has details of enforcement undertaken by the state in 2019–20.

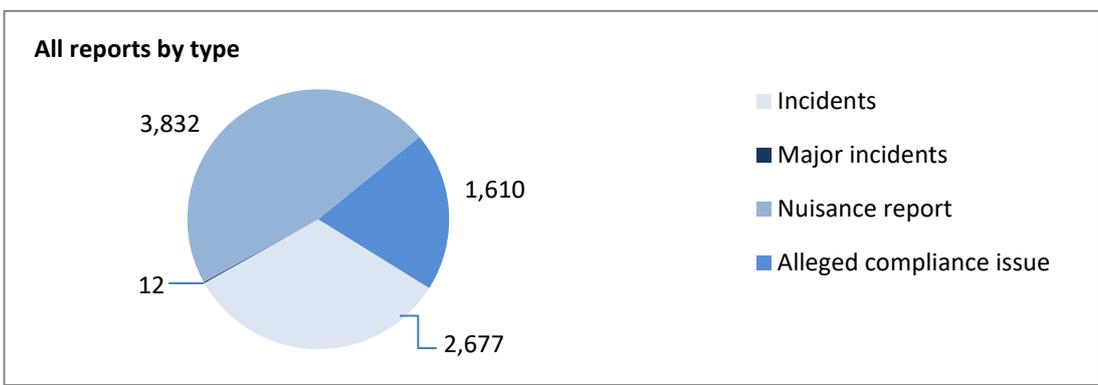
In July 2018, DES established the Odour Abatement Taskforce (OAT) in Swanbank, in response to community concerns about the waste industry and odour issues prevalent in the community. As part of OAT, community members were encouraged to provide reports on odour and other nuisance issues. During 2019–20, OAT received 2,761 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 and in the breakdown by type of report in Figure 4.

Figure 3 gives the number of community reports received by the relevant state administering authorities. A breakdown by type of report to DES is shown in Figure 4. Figure 4 also includes details of calls to DES' pollution hotline.

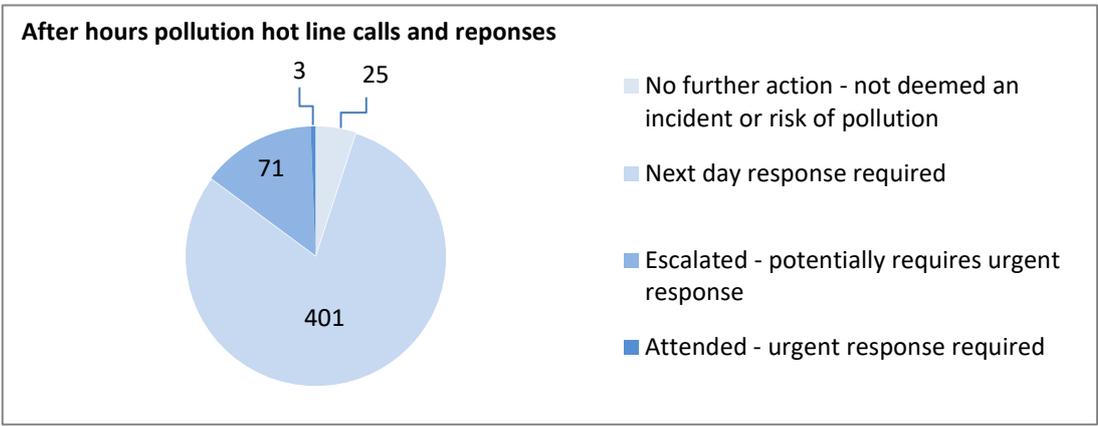


DES responds to incidents involving serious and material environmental harm when the contaminant creates more than just a minor nuisance and is likely to result in widespread damage to ecosystems. DES also responds to nuisance matters where they involve state government bodies or local governments.

Figure 4: Reports received by DES in 2019–20



Total reports received 8,131



Total calls 464

Note - categories are not exclusive. Some incidents may have two categories, (e.g. next day responses may also be escalated).

3.2 Temporary emissions licence

The holder of an EA may apply for a temporary emissions licence (TEL). A TEL is a permit that temporarily (generally no longer than three months) relaxes or modifies specific conditions of an EA. If approved, this allows the release of a contaminant into the environment in response to an emergency such as a cyclone or an unforeseen event or emergent issues such as flood waters or bushfires.

No TELs were issued by DAF in 2019-20.

Table 5 shows the TELs issued by DES for 2019-20.

Table 5: Temporary emissions licence applications 2019–20

Temporary emissions licence applications	2019–20
Number of application received	5
Number of applications approved	3
Number of applications refused	0
Number of applications withdrawn	2

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.

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.

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.

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.

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.

Clean-up notices and **cost recovery notices** are often used together. The administering authority may issue a clean-up notice to a person or organisation it believes to be responsible for a contamination incident. The notice will require various actions to be undertaken to restore or rehabilitate the environment. 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.

Figure 5 summarises compliance actions under the EP Act for 2019–20 by relevant state administering authority.

Penalty infringement notices can be issued for minor breaches of the EP Act or a condition of an approval, and require the recipient to pay a fine. Table 6 provides a breakdown of the number of PINs issued under the EP Act for 2019–20 by 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.

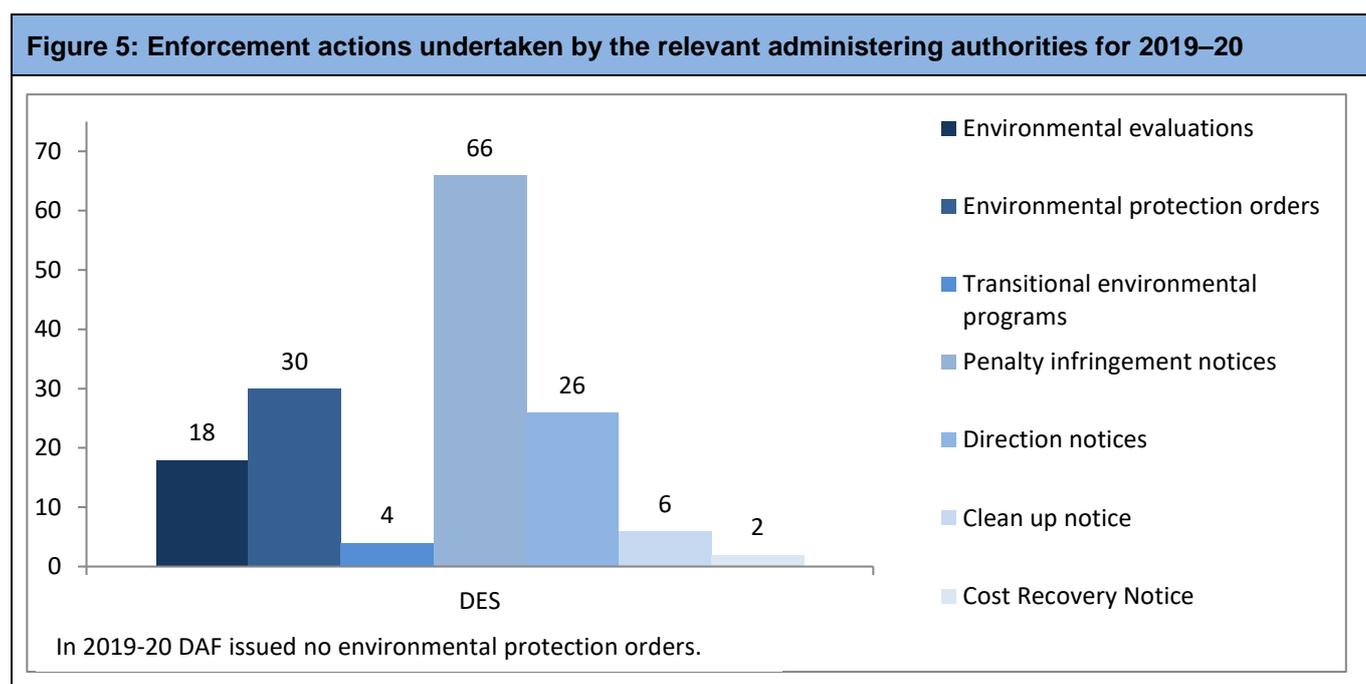


Table 6: Breakdown of the number of infringement notices issued by relevant state administering authority based on the offence type for 2019–20

No. PINs	Description
DES issued penalty infringement notices	
5	Carry out ERA without an authority for that ERA – Corporation
2	Carry out ERA without an authority for that ERA – Individual
49	Contravention of condition of environmental authority – Corporation
1	Contravention of condition of environmental authority – Individual
1	Contravention of TEP- Corporation
1	Unlawful deposit of prescribed water contaminants in waters etc. if the deposit or release is done other than wilfully – Corporation
DES issued penalty infringement notices under Environmental Protection Regulation 2019	
No. PINs	Description
3	Transport without consignment number - Corporation
2	Failure to record and give information to waste transporter (Generator) - Corporation
1	Failure to carry information (Transporter) - Corporation
1	Failure to give information to administering authority (Receiver) – Individual
66	Total
DAF issued penalty infringement notices	
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 successfully finalised 12 prosecutions in 2019-20 under the EP Act and subordinate legislation, resulting in fines totalling \$730,000 and \$59,489.02 in legal and investigation costs. A breakdown of information on the prosecutions is provided in Table 7.

Table 7: Prosecutions by relevant state administering authority for 2019–20

Matter Reference	Court date	Brief Description	Penalty	Costs
LIT1773	5 July 2019	Four charges of contravening a condition of an environmental authority, contrary to section 430(3) of the <i>Environmental Protection Act 1994</i> .	\$130,000 (\$50,000 of which was to be paid by way of Public Benefit Order) Conviction recorded	\$8,104.31 investigation costs \$1,500 legal costs
LIT1791	5 July 2019	See above	As above – combined fine	As above – combined costs
LIT1819	8 July 2019	One charge of unlawfully causing serious environmental harm, contrary to section 437(2) of the <i>Environmental Protection Act 1994</i> ; and Three charges of contravening a condition of an environmental authority, contrary to section 430(3) of the <i>Environmental Protection Act 1994</i> .	\$200,000 fine No conviction recorded	\$9,680.63 investigation costs \$1,500 legal costs
LIT1754	6 September 2019	Fifty-three charges of failing to ensure a corporation complied with the <i>Environmental Protection Act 1994</i> , contrary to section 493(2) of the <i>Environmental Protection Act 1994</i> ; Nine charges of contravening an environmental protection order, contrary to section 361(2) of the <i>Environmental Protection Act 1994</i> ; and Three charges of wilfully failing to comply with a clean-up notice, contrary to section 363(1) of the <i>Environmental Protection Act 1994</i> .	\$200,000 fine Conviction recorded	\$2,170 investigation costs \$5,750 legal costs
LIT1758	6 September 2019	See above	As above – combined fine	As above – combined costs
LIT1717	13 November 2019	Seven charges of contravening a condition of an environmental authority, contrary to section 430(3) of the <i>Environmental Protection Act 1994</i> ; and One charge of contravening a condition of an approved transitional environmental program, contrary to section 432A(b) of the <i>Environmental Protection Act 1994</i> .	\$55,000 fine No conviction recorded	\$3,703.70 investigation costs \$1,500 legal costs

Matter Reference	Court date	Brief Description	Penalty	Costs
LIT1803	13 November 2019	See above	As above – combined fine	As above – combined costs
LIT1858	6 February 2020	One charge of providing a document containing false or misleading information to the administering authority, contrary to section 480(1) of the <i>Environmental Protection Act 1994</i> .	\$20,000 fine No conviction recorded	\$4,054.20 investigation costs \$2,000 legal costs
LIT1859	7 February 2020	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> .	\$30,000 fine No conviction recorded	\$1,212.13 investigation costs \$1,500 legal costs
LIT1833	21 February 2020	One charge of contravening an environmental protection order, contrary to section 361(2) of the <i>Environmental Protection Act 1994</i> .	\$30,000 fine No conviction recorded	\$4,000 investigation costs \$2,000 legal costs
LIT1832	29 April 2020	One charge of wilfully contravening a condition of an environmental authority, contrary to section 430(2) of the <i>Environmental Protection Act 1994</i> .	\$20,000 fine No conviction recorded	\$5,650.05 investigation costs \$1,500 legal costs
LIT 1870	21 May 2020	Two charges of contravening a condition of an environmental authority, contrary to section 430(3) of the <i>Environmental Protection Act 1994</i> .	\$45,000 fine No conviction recorded	\$2,164 investigation costs \$1,500 legal costs
		TOTALS	\$730,000	\$59,489.02

4.2 Planning and environment court orders

Where a continuing or potential environmental threat exists, the court may make a restraint order. Restraint orders may be issued for a threatened or anticipated offence.

One restraint order was made under the EP Act by relevant state administering authorities in 2019–20.

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.

Four search warrants were executed under the EP Act by relevant state administering authorities in 2019–20.