

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

1 July 2018–30 June 2019

Introduction

The *Environmental Protection Act 1994* (the EP Act) provides for ecologically sustainable development. It allows 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.

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 2018–19 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 Natural Resources, Mines and Energy (DNRME) 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	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 important 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 ERAs

The EP Act defines three types of ERAs:

- a) Agricultural ERAs involve the application of fertilisers on cane and cattle farms in certain catchments affecting the Great Barrier Reef.
- b) Resource activities include:
 - 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

Under section 75 of the EP Act, an activity is classed as an agricultural ERA if it is commercial sugar cane growing or cattle grazing carried out on an agricultural property of more than 2000 hectares (ha); and is in one or more of the following catchments:

- Wet Tropics catchment
- Mackay–Whitsunday catchment
- Burdekin Dry Tropics catchment.

An environmental risk management plan (ERMP) is required for agricultural ERAs where there is sugar cane growing on more than 70ha in the Wet Tropics catchment or cattle grazing on more than 2000ha in the Burdekin Dry Tropics catchment.

In January 2018, a Consultation Regulatory Impact Statement was released outlining a proposal to review and enhance the current Reef regulations. As part of the proposal, ERMPs will be repealed and replaced with alternative measures including minimum standards for a range of agricultural commodities, including grazing and cane. As of August 2018, all remaining ERMPs have expired.

1.2 Resource activities

Resource activities are geothermal, greenhouse gas storage, mining and petroleum 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 2018–19 issued by DES. Existing EAs were those current at 30 June 2018 and that are still current at 30 June 2019. New EAs are those that were issued after 30 June 2018 and are still current as at 30 June 2019. The total number of EAs as at 30 June 2019, is 5,089 (283 new and 4,806 existing).

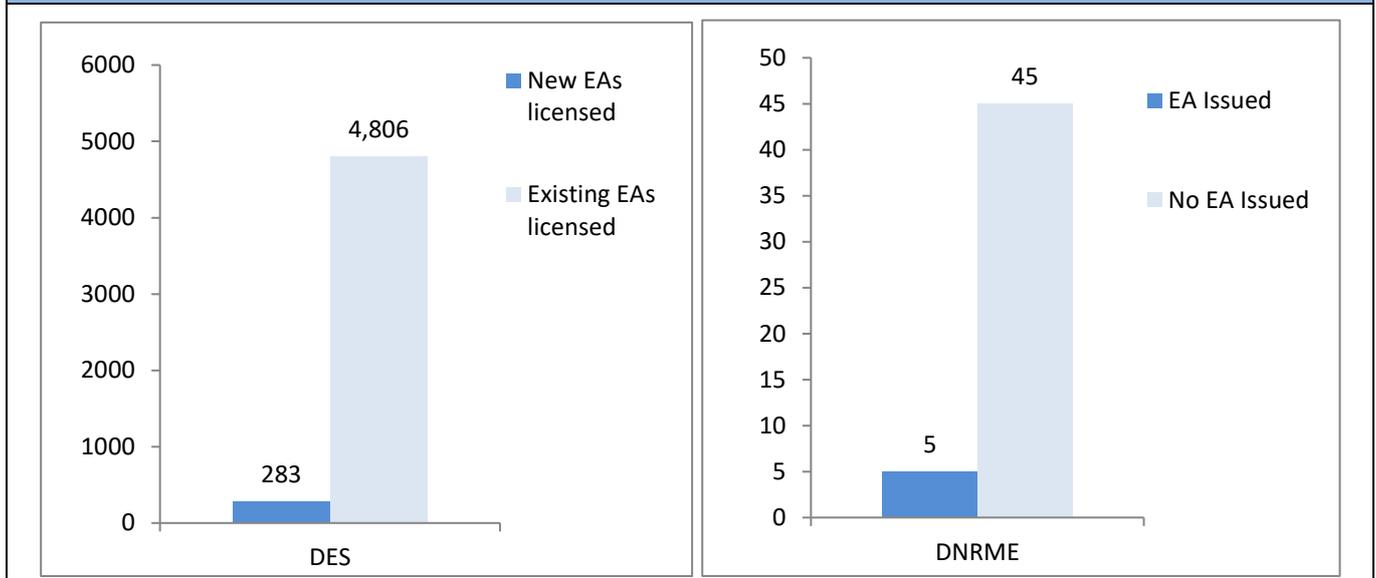
Under powers delegated by the EP Act, DNRME has issued five environmental authorities for mining claims during the 2018–19 financial year. Figure 1 also outlines the number of small-scale mining claim tenure approvals that do not require an environmental authority. These small-scale mining claim tenures do not require an environmental

authority as they must adhere to conditions outlined in the Environmental Protection Regulation 2008.

Of the 283 new EAs for resource activities approved by DES in the 2018-19 financial year, there are 168 environmental authorities that have been granted, but are not yet effective; 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 2018–19

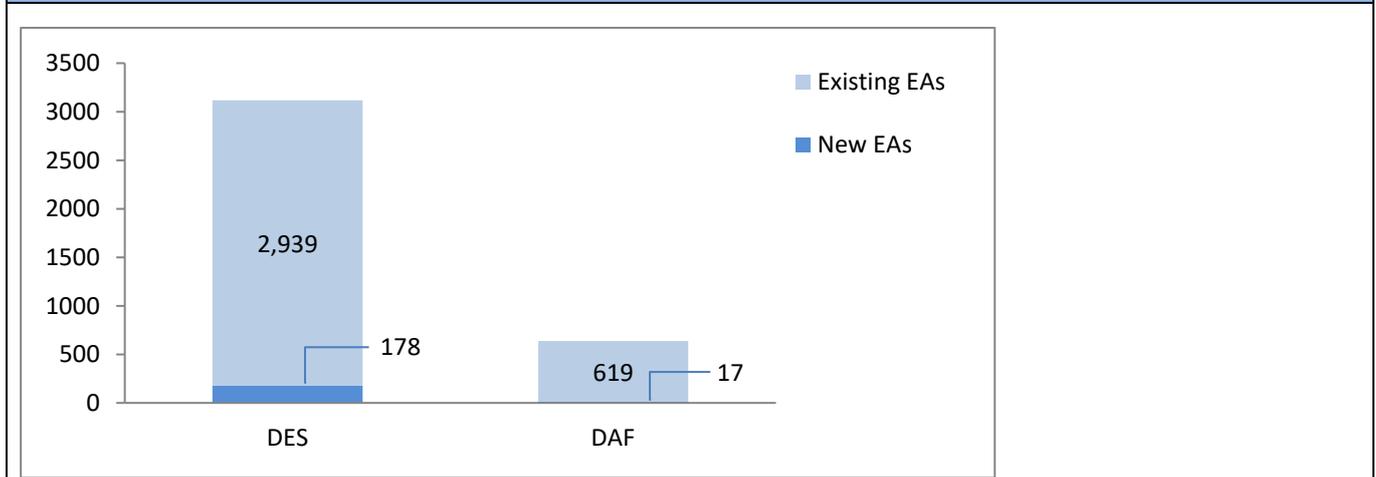


1.3 Prescribed environmentally relevant activities

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 2008. 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 2018–19 by the relevant state administering authority. Existing EAs were those current at 30 June 2018 that are still current at 30 June 2019. The total number of EAs current at 30 June 2019 is 3,117 for DES and 636 for DAF (from the sum of the new and existing EAs).

Figure 2: Environmental authorities for prescribed ERAs for 2018–19



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 2018-19. There were eleven EIS assessments in progress as at 30 June 2019, with further information provided in Table 2.

Table 2: EIS assessments in progress in 2018–19

Project name	Type of project	Status as at 30 June 2019
Baralaba South Project	Open cut coal mine	EIS in preparation
Saraji East Mining Lease Project	Open cut coal mine	EIS in preparation
Central Queensland Coal Project	Open cut coal mine	Decision on whether to proceed to the Assessment Report stage to be made by DES
Walton Coal Project	Open cut coal mine	EIS in preparation
Coconut Project	Bauxite mine	Application for voluntary EIS
North Alpha Coal	Open cut coal mine	Submit draft Terms of Reference
St Elmo Vanadium Project	Open cut vanadium mine	DES to make decision on submitted EIS
Surat Basin Coal	Underground thermal coal mine	Submit draft Terms of Reference
Isaac Downs Project	Open cut coal mine	Publication of Terms of Reference notice
Galilee Gas Pipeline	Gas pipeline	Submit draft Terms of Reference
Valeria Coal Project	Open cut coal mine	Submit draft Terms of Reference

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 the 30 June 2019 and the number of various application outcomes for 2018–19.

Table 3: Suitable operator registration for 2018–19

Action	2018–19
Current as at 30 June 2019	10,646
Received	596
Approved	593
Withdrawn	5
Refused	0
Cancelled	1
Expired	2

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 2018–19.

Table 4: Contaminated land sites and management activities undertaken for 2018–19

Contaminated land sites	2018–19
Number of sites on the EMR as at 30 June 2019	29,842
Number of sites on the CLR as at 30 June 2019	16
Contaminated land management activities	2018–19
Sites removed from the CLR or EMR	46
Site management plans approved	7
Suitability statements issued	53
Soil disposal permits issued	276
Searches of the environmental management and contaminated land registers	72,611

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

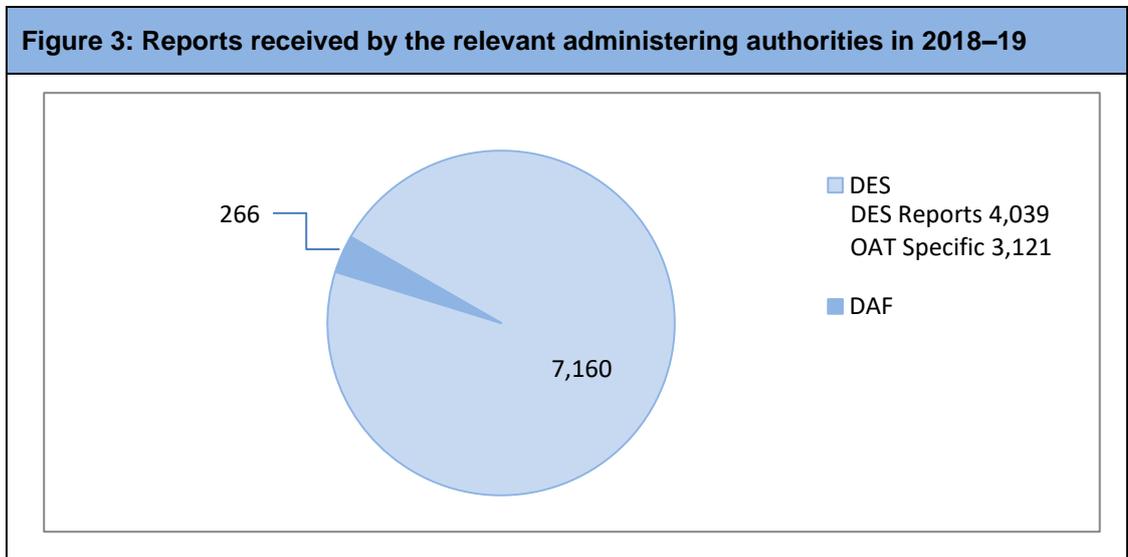
Local governments are generally responsible for the investigation of reports about releases of prescribed water contaminants, nuisance (such as noise, odour and fumes) and ERAs administered by local government. Local governments can respond to the report and can take action against someone causing an environmental nuisance.

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 2018–19.

In July 2018, DES established the Odour Abatement Taskforce in Swanbank, in response to a community survey run in April 2018 that identified concerns about the waste industry and odour issues prevalent in the community. As part of the Taskforce, community members were encouraged to provide reports on odour and other nuisance issues. During 2018–19, the Taskforce received 3,151 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.

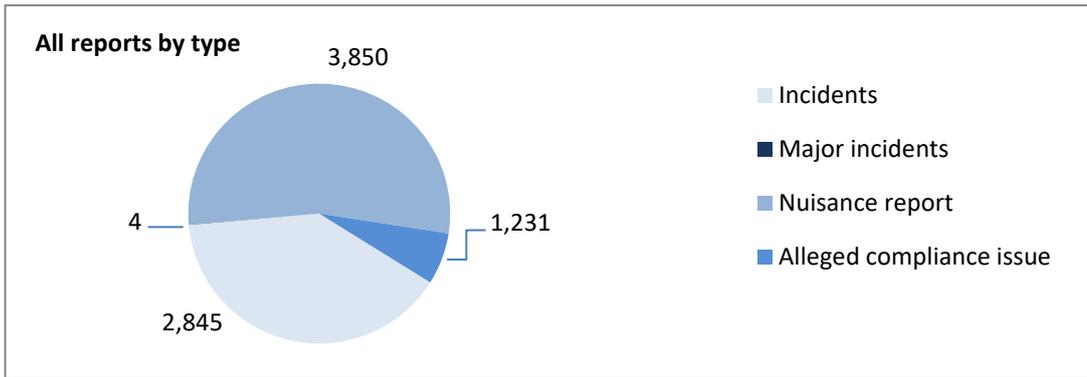
Figure 3 gives the number of community reports received by the relevant state administering authorities. A breakdown by type of report to DES is shown in Figure 4. Figure 4 also includes details of calls to DES’ pollution hotline.



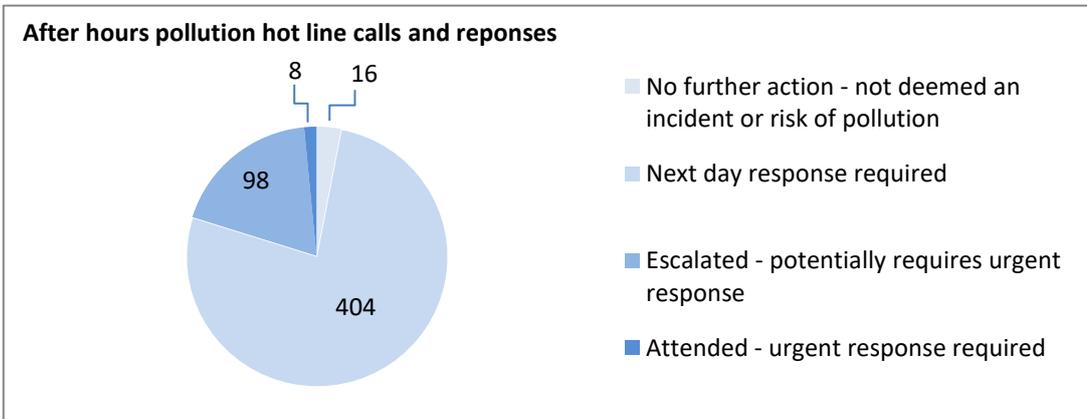
3.2 Incidents

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 2018–19



Total reports received 7,160



Total calls 473

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

3.3 Temporary emissions licence

The holder of an environmental authority 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 environmental authority. 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 2018-19. Table 5 shows the TELs issued by DES for 2018-19.

Table 5: Temporary emissions licence applications in 2018–19

Temporary emissions licence applications	2018–19
Number of applications received	13
Number of applications approved	10
Number of applications refused	2
Number of applications withdrawn	1

4 Enforcement

DES and DAF can issue a range of enforcement actions, including statutory notices, which require a person or organisation to start or stop an activity 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 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.

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.

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.

Figure 5 summarises compliance actions under the EP Act for 2018–19 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 2018–19 by relevant State administering authority based on the type of offence.

Figure 5: Enforcement actions undertaken by the relevant administering authorities for 2018–19

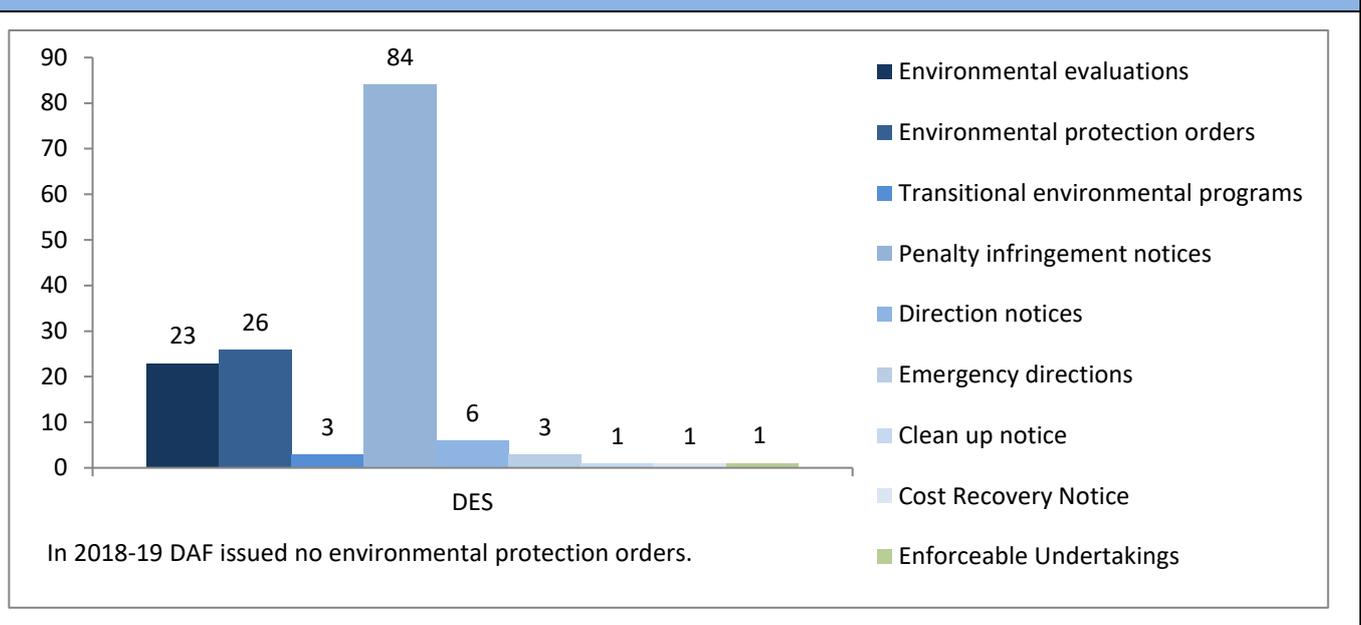


Table 6: Breakdown of the number of PINS issued by DES based on the offence type for 2018–19

No. PINs	Description
DES issued penalty infringement notices	
7	Carry out ERA without an authority for that ERA – Corporation
2	Carry out ERA without an authority for that ERA – Individual
1	Contravention of an EPO – Individual
55	Contravention of condition of environmental authority – Corporation
2	Contravention of condition of environmental authority – Individual
2	Fail to comply with plan of operations – Corporation
2	Fail to comply with the notice under section 451 – Corporation
1	Failure of other persons to notify particular owners and occupiers for an event mentioned in section 320A(1)(a) – Corporation
1	Holder contravenes an environmental authority even if another person acting under authority commits an offence – Corporation
4	Unlawful deposit of prescribed water contaminants in waters etc. if the deposit or release is done other than wilfully – Corporation
2	Unlawfully cause an environmental nuisance – Corporation
1	Unlawfully cause material environmental harm – Corporation

DES issued penalty infringement notices under Environmental Protection Regulation 2008	
No. PINs	Description
3	Failure to give information to administering authority (Receiver) – Corporation
1	Failure to give information to waste receiver (Transporter) – Corporation
84	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.

A brief summary of prosecutions under the EP Act by state administering authority is provided in Table 7.

Table 7: Prosecutions by relevant state administering authority for 2018–19

Department	Prosecutions commenced	Prosecution completed	Penalties imposed (totals)
DES	22	19	Total sum of fines ordered: \$1,351,500 Total sum of costs ordered: \$67,417.36
DAF	0	0	

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 2018–19.

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.

One search warrant was executed under the EP Act by relevant state administering authorities in 2018–19.