

Environmental Defender's Office

The new contaminated sites law

Nicola Rivers

Environmental Defender's Office WA (Inc)

This information is for education purposes only and should not be relied upon in a legal context. Contact the EDO if you have a specific query

Contaminated Sites Act

- Came into force 1 December 2006
 - Previously, there was no consistent regime for clean up of sites.
 - New Act sets out who must report contamination, who is responsible for the clean up, and sets up a public database of contaminated sites.
 - Polluter pays principle
-

What is a contaminated site?

- An area that has *“a substance present in or on that land, water or site at above background concentrations that presents, or has the potential to present, a risk of harm to human health, the environment or any environmental value”*
- Exemptions:
 - ❑ surface water eutrophication,
 - ❑ water and land salinisation,
 - ❑ substances in a building
 - ❑ correct application of fertiliser
 - ❑ orders by Minister
 - ❑ exemption certificate



Mandatory reporting

- ❑ Owner/occupier who knows or suspects contamination
- ❑ Person who knows or suspects they caused or contributed to the contamination
- ❑ Within 21 days if they know of contamination or as soon as practicable if they suspect



Iron rich mine leachate

Non-mandatory reporting

- Any person can report known or suspected contamination to the DEC
 - Signs of contamination:
 - abnormal colouring or staining of the soil;
 - odours emanating from the soil;
 - evidence off-site migration of chemicals, staining, odours or contaminants into adjacent creeks, rivers or wetlands;
 - historical illegal or uncontrolled landfills on-site; or
 - inappropriate waste disposal on site (such as via soak well or on-site burial).
-

Classifications

CLASSIFICATION	CRITERION
<i>Report not substantiated</i>	A report under section 11 or 12 provides no ground to indicate possible contamination of the site
<i>Possibly contaminated — investigation required</i>	There are grounds to indicate possible contamination of the site
<i>Not contaminated — unrestricted use</i>	After investigation, the site is found not to be contaminated
<i>Contaminated — restricted use</i>	The site is contaminated but suitable for restricted use
<i>Remediated for restricted use</i>	The site is contaminated but has been remediated so that it is suitable for restricted use
<i>Contaminated — remediation required</i>	The site is contaminated and remediation is required
<i>Decontaminated</i>	The site has been remediated and is suitable for all uses

Contaminated sites database

- Certain classified sites are listed on a public database
 - Contamination – remediation required
 - Contamination – restricted use
 - Remediated for restricted use
 - Sites in other classifications can be obtained from DEC
 - Access to database is free through internet
-



Contaminated Sites Database



[New Search](#) [Find Suburb/Town](#) [Metadata](#) [Map Help](#)

Search for Known Contaminated Sites

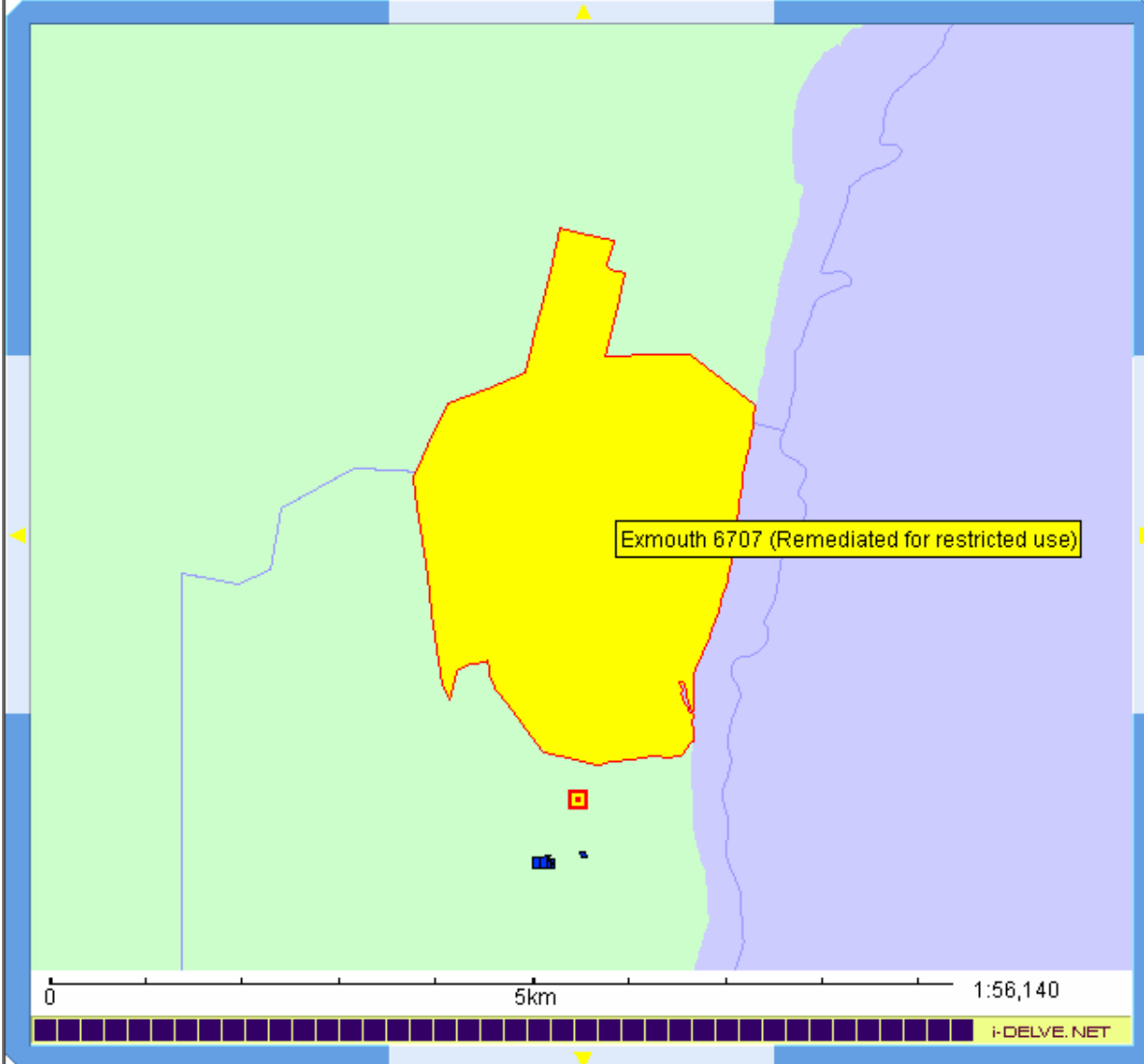
Search results

[New Search](#)

Location	Classification	Map	Site Information
Exmouth 6707	Remediated for restricted use	Site Near	Basic Summary of Records
8 Murat Rd Exmouth 6707	Contaminated - remediation required	Site Near	Basic Summary of Records
29 Pelias St Exmouth 6707	Contaminated - remediation required	Site Near	Basic Summary of Records
29 Pelias St Exmouth 6707	Contaminated - remediation required	Site Near	Basic Summary of Records
8 Huston St Exmouth 6707	Contaminated - remediation required	Site Near	Basic Summary of Records
6 Huston St Exmouth 6707	Contaminated - remediation required	Site Near	Basic Summary of Records
4 Huston St Exmouth 6707	Contaminated - remediation required	Site Near	Basic Summary of Records
Exmouth 6707	Contaminated - remediation required	Site Near	Basic Summary of Records
Exmouth Gulf 6707	Remediated for restricted use	Site Near	Basic Summary of Records

[Print](#)

For information on the above site(s) visit the Data Summary of



Exmouth 6707 (Remediated for restricted use)

Zoom in tool. Click and drag a rectangle.

Exmouth 6707 (Remediated for restricted use)

[Disclaimer](#)

Applet map started

Internet

Responsibility for cleanup

- Only 'contaminated – remediation required' sites must be cleaned up under the Act
 - DEC & Committee will decide who is responsible
 - Many factors considered:
 - When contamination occurred
 - Whether company responsible still exists
 - Change of use of a site
 - Owner of the site
-

Remediation

- Act encourages responsible behaviour such as voluntary investigation and clean up.
 - Person responsible can be served with a notice:
 - Investigation notice – land must be investigated for contamination
 - Clean up notice – land must be remediated
 - Hazard abatement notice – serious and immediate threat –access to land is restricted
-

For more information...

- EDO website for our fact sheet
 - www.edowa.org.au
- DEC website for their fact sheets and database
 - www.dec.wa.gov.au
- Call DEC free call information line
 - 1300 762 982



How you could help the EDO

- **Referrals** where someone needs legal advice on an environmental matter **and** is likely to meet our criteria
- **Attend** our seminars, **buy** our **books**, as professional development



How you could help (cont'd)

- **Volunteer** for non-legal tasks – conference organisation, fundraising and newsletter contributions
- **Become a member**
- **Donate**, (amounts over \$2 are tax deductible)

www.edowa.org.au

