
6 June 2022

Contractor guilty of pollution offences

A civil works contractor has been convicted and fined over environmental offences at a housing development site in the Adelaide Hills.

DML Constructions Pty Ltd was found to have committed two counts of causing an environmental nuisance by failing to undertake adequate site works to prevent erosion.

It has been fined a total of \$9,800 and will pay prosecution costs of \$4,044. It also must publish a public notice advising of the breaches of the *Environment Protection Act 1993*.

The offences occurred in April and June 2018.

The company had been contracted by Nevarc Constructions Pty Ltd, trading as Oakford Homes, to undertake site works for a project at Nairne in 2018.

Nevarc's involvement has already been settled in the Environment, Resources and Development Court. In September 2021 it was convicted and fined a total of \$11,100 for pollution offences.

The EPA had prosecuted Nevarc and DML Constructions over the incidents in 2018, when the EPA received complaints from residents living adjacent to an Oakford Homes development at Nairne.

The EPA found poor erosion control resulted in discharges of pollutants (soil, clay, gravel or sand) from the site onto neighbouring residential properties and into Nairne Creek and its tributary along Lower Nixon Street following rain events.

In sentencing DML Constructions, Judge Durrant said its contract with Nevarc required DML to comply with a civil environmental management plan and that it was responsible for managing soil erosion and stormwater run-off.

DML's actions were 'inadequate' and a serious example of the relevant type of offending.

Judge Durrant acknowledged that DML had cooperated with the EPA, had no prior convictions and had assisted in the clean-up, as well as taking steps to ensure such offences would not recur.

He recorded convictions for each of the DML offences and reduced the penalty for early guilty pleas.

Information about preventing erosion and stormwater pollution, as well as sediment control measures, is available on the EPA website. It sets out builders' and developers' legal obligations and has a link to the EPA's code of practice for the industry.