

22 June 2020

The Secretary  
Department of Planning, Industry and Environment  
4 Parramatta Square  
12 Darcy Street  
Parramatta NSW 2150

Dear Sir

**Non-Compliance Notification**  
**Consent: SSD-7348**  
**Oakdale West Estate**

Goodman Property Services (Aust) Pty Ltd (**Goodman**) is the applicant under development consent SSD-7348 granted by the Minister's delegate on 13 September 2019 (the **Consent**).

This is a non-compliance notification in accordance with condition D136 of the Consent,

Goodman is aware of a non-compliance with condition D37 of the Consent. Condition D37 says:

*The Applicant must complete the landscape bund along the western boundary of the Site as shown on Figure 4 in Appendix 2 within six months of commencing any construction including bulk earthworks.*

Because construction commenced on 18 December 2019, condition D37 required the landscape bund to be completed by 18 June 2020. Unfortunately, due to delays and other factors beyond the control of Goodman and its contractor, Burton Contractors Pty Ltd (**Burton**), there has been a minor and short-term non-compliance with this condition.

While the vast majority of the landscape bund works were completed within the time period specified in condition D37, some tree planting was not completed by the required date.

In summary, the only remaining work that is required to achieve complete compliance with condition D37 is the planting of 153 trees (out of a total of 173 trees and approximately 30,000 plants). The remaining trees are scheduled to be planted on 30 June 2020, subject to favourable weather conditions, at which time Goodman will have completed all of the works required by condition D37. The remaining trees have been sourced and will be planted as soon as their root systems have reached a sufficient level for planting.

The enclosed letter from Burton sets out the way in which the development is non-compliant with condition D37, the reasons for the non-compliance, and the actions that have been, and will be, undertaken to address the non-compliance.

As soon as Goodman became aware of the potential for a non-compliance (that is, that it may not be possible to complete all of the required landscape bund works by 18 June 2020), Goodman contacted the Department. On 15 May 2020, Goodman wrote to Chris Ritchie of the Department to notify the Department

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of the likelihood that Goodman would not be able to comply fully with condition D37 and sought further advice from the Department.

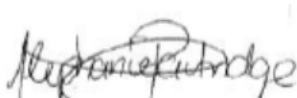
In circumstances where:

- Goodman has substantially complied with condition D37;
- the delay in achieving total completion of the works required by condition D37 by the date required was in part due to COVID-19 and therefore circumstances beyond Goodman's control;
- the delay in achieving total completion of the works required by condition D37 will be minimal, indeed less than a fortnight;
- Goodman acted proactively to inform the Department of the risk that it would not comply with condition D37 as soon as it became aware of the circumstances of the delay; and
- no environmental harm, or risk of environmental harm, arises as a result of the non-compliance,

Goodman asks that the Department take no further action in respect of the non-compliance, and confirm this position in writing.

Please contact the undersigned on 0410 470 138 if you would like to discuss this letter.

Yours faithfully



Stephanie Partridge

**Development Manager**

**For and on behalf of Goodman Property Services (Aust) Pty Limited**

Encl

Annexure A – Delay Notification, Burtons Contractors Pty Ltd

17<sup>th</sup> June 2020

AT&L Pty Ltd  
Level 7, 153 Walker Street  
North Sydney NSW 2060

**Attention:** Dane Segail  
**By Email:** Dane.S@atl.net.au

Dear Dane,

**Contract between Goodman Property Services (Aust) Pty Ltd and Burton Contractors Pty Ltd for Oakdale West Estate Internal Lot Infrastructure Works ("Contract")**

**Western Bund Landscaping**

Please be advised that as of today we have been unable to fully complete the landscaping of the Western Bund to the full scope shown in the landscaping drawings. Condition D37 of the DA states the following;

*"The Applicant must complete the landscape bund along the western boundary of the Site as shown on **Figure 5 in Appendix 2** within six months of commencing any construction including bulk earthworks."*

Construction works on site commenced on the 18<sup>th</sup> of December 2019, giving a completion date of the 18<sup>th</sup> of June 2020 for the landscaped bund. As of the 17<sup>th</sup> of June 2020 the majority of works are completed including:

- Earthworks of the Western Bund
- Turfed swales to both sides of the Western Bund
- Two rock walls which form part of the Western Bund
- Mulch to the entire Western Bund
- Irrigation system installed to the entire Western Bund
- All tube stock and general planting installed on the Western Bund (approx. 30,000 plants)
- 20 of 173 trees installed;

The only outstanding item is the remaining 153 trees. The remaining trees have been sourced and are sitting in the nursery and are two weeks away from the root systems reaching a sufficient level for planting. These trees are scheduled to be installed on 30<sup>th</sup> June 2020.

There has been a number of issues arise over the past six months which have resulted in us not being able to achieve this completion of these works on the above date. These have included:

- Council approval of drawings – Received on the 25<sup>th</sup> of February. These were originally issued to Penrith City Council by AT&L on the 23<sup>rd</sup> of August 2019 and followed up multiple times via email and phone calls.
- Revised plant schedule approval based on Mod 3 design changes – Received on the 13<sup>th</sup> of March.
- Inclement Weather – To date we have had 12 EOT's for wet weather totalling 19 working days. We have recorded 738.5mm of rain on site since the beginning of the calendar year.
- Supply issues:
  - COVID-19 has resulted in supply issues from sourcing inter-state.
  - Seasonal issues – with the time of year and cooler weather, nurseries haven't been able to grow trees within the shortened time frames.
  - Shortage of available time for sourcing due to delayed council approvals.

In order to try and mitigate the issue with the supply of trees we have approached six different wholesale nurseries over the past months to try and secure the required trees. Unfortunately, they are all in the same position with trees in short supply at this time of year.

If you have any further queries, or require any additional information, please don't hesitate to contact us.

Yours sincerely



**Dermot Walsh**

Project Manager

Burton Contractors Pty Ltd

**Attachments:**

- Western Bund Works – Photos





Figure 1.





Figure 2.





Figure 3.





Figure 4.





Figure 5.





Figure 6.





Figure 7.





Figure 8.





Figure 9.





Figure 10.





Figure 11.



Figure 12.