

Enforceable Undertaking

This is an Enforceable Undertaking given under Section 9.5 of the Environmental Planning and Assessment Act 1979 (NSW) by Belvarde Constructions Pty Ltd (ACN 001 998 036)

1 Persons giving the Undertaking

- 1.1 This Enforceable Undertaking (**Undertaking**) is given to the Department of Planning, Housing and Infrastructure (**DPHI**) by Belvarde Constructions Pty Ltd (ACN 001 998 036) (**Belvarde**) pursuant to section 9.5 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EPA Act**).

2 Background

- 2.1 On 17 May 2021, the NSW Land and Environment Court approved the redevelopment of the former Black Bear Inn (NSW LEC No. 2020/68009) (DA 10064). The subject site is known as 'Black Bear Inn' (Lot 794 DP 1119757), Diggings Terrace, within Thredbo Village, Thredbo Alpine Resort Kosciuszko National Park (**Premises**).
- 2.2 Belvarde is a construction company that is carrying out development at the Premises pursuant to development consent No.10064 (**Development Consent**).
- 2.3 Following an investigation, DPHI has formed the view that Belvarde carried out development otherwise than in accordance with the Development Consent between about 13 December 2021 to 28 January 2022 by installing rock anchors outside of the boundary of the site for which the Development Consent was granted (**Alleged Contraventions**).
- 2.4 DPHI considers that the Alleged Contraventions breach the *Environmental Planning and Assessment Act 1979*.
- 2.5 In response to DPHI's investigation, Belvarde stopped work, and prepared and completed a works plan in accordance with remediation orders to ensure that the site was safe and that there was no adverse environmental impact.
- 2.6 This Undertaking is made in the public interest to avoid the costs associated with litigation.

3 Commencement of Undertaking

- 3.1 This Undertaking takes effect when both of the following have occurred:
- (a) this document is executed by Belvarde Pty Ltd; and
 - (b) this document so executed is accepted and executed by the Secretary, DPHI pursuant to section 9.5 of the EPA Act
- (**Commencement Date**).

4 Term of Undertaking

- 4.1 This Undertaking is enforceable for a period of five (**5**) years from the Commencement Date (**Term**).

5 Acknowledgement

- 5.1 Belvarde acknowledges the legitimacy of the concerns raised by DPHI regarding development that does not comply with a development consent and concedes that any failure to so comply with a development consent would constitute a breach of the *Environmental Planning and Assessment Act 1979*.

6 Undertaking

6.1 Belvelarde undertakes for the purposes of section 9.5 of the Act that it will:

- (a) Engage a compliance consultant to conduct annual reviews of compliance with conditions of development consent and the EPA Act; and,
- (b) Belvelarde will host an awareness and training to industry event within (3) months of the Commencement Date of the EU with the following conditions:
 - (i) the program of the event will be provided to DPHI 14 days prior to the event being held;
 - (ii) the event will be titled 'Compliance with Conditions of Development Consent' and will address regulatory compliance with the *Environmental Planning and Assessment Act 1979*;
 - (iii) will be offered to developers in the NSW Alpine Resort Areas within Kosciuszko National Park; and
 - (iv) will be followed by a report to DPHI to confirm completion.
- (c) Within 28 days after the Commencement Date, Belvelarde will pay DPHI the amount of \$50,000 (including GST) for costs associated with its investigations regarding this matter.

(Departmental Costs)

The Departmental Costs will be deposited into the following account:

Bank: Westpac

Account Name: DPIE Operating ACC No. 2

BSB: 032-001

Account No. 114428

- (d) Send an email to the Director Compliance, Department of DPHI at Compliance@planning.nsw.gov.au enclosing a copy of the bank statement or transaction receipt that confirms the payment described in paragraph 6.1(c) has been made, within 7 days of making that payment.

6.2 Belvelarde acknowledges that:

- (a) The Secretary will make this Undertaking publicly available, including by publishing it on its website;
- (b) Secretary may, from time to time, make public reference to this Undertaking;
- (c) This Undertaking in no way derogates from the rights and remedies available to any third parties arising from the Alleged Contraventions.

7 Execution

Executed by **Bellevarde Constructions Pty Ltd** (ACN 001 998 036) in accordance with section 127 of the *Corporations Act 2001*

Signature of director

Name of director – BLOCK LETTERS

Signature of director/secretary

Name of director/secretary – BLOCK LETTERS

Executed by the **Department of Planning, Housing and Infrastructure**

Accepted by the Secretary of the Department pursuant to section 9.5 of the *Environmental Planning and Assessment Act 1979* (NSW) on:

Date:

12.6.2024

Signed:

Name:

Benjamin Harrison

Position:

Director Compliance
Department of Planning, Housing and Infrastructure
(by Delegation)