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Planning Secretary

Department of Planning, Housing and Infrastructure

Attention: Aaron Hogan

SSD-88004956 — Lourdes Retirement Village, 95-97 Stanhope Road, Killara

I object to this application, on two grounds only: the height of the buildings, and the order in which the applicant proposes to build them.

I want to say at the start what I am not objecting to, because I think the applicant has got the main thing right. Pulling the buildings back out of the BAL-40 and Flame Zone areas is the correct decision. So is the 56 metre Asset Protection Zone to the southern boundary, and so is dropping the dwelling count from 172 to 145. I am not asking for the development to be spread more widely across the site either. Spreading it out would push buildings back towards the bush and cost more trees. I support the consolidated footprint. What I am asking for is fewer stories on it.

Who I am

I live at Northcote Road, Lindfield, on the southern side of the valley from the site. I have lived here for two years and in Lindfield for 10. Every room in the house looks out over the bushland towards the ridge the new buildings would sit on, so this is not a view I catch in passing on the way to the car. It is the outlook from the kitchen, the lounge and every bedroom, and it is a large part of why we bought the house.

I should also declare that I was until recently Chief Technology Officer at Mable, a marketplace for aged care and disability support services. I have spent years around the operational realities of caring for older Australians, and that is why the staging section below is the part of this submission I feel most strongly about. It is also why I want to be clear that I am not opposed to this village being rebuilt. It should be. The residents deserve better than forty-year-old buildings in a flame zone.

What the view is actually like, and what would change

The reason I can live 260 metres from a retirement village and barely know it is there is the tree canopy. The existing buildings are low and they sit under it. From my windows the site is continuous trees. That setting is also what the owner sells: Levande's website describes Lourdes as "nestled on the edge of Garigal National Park" in "the wooded suburb of Killara". It is proposing to remove 366 of the 620 living trees on the land and to place buildings above the canopy that remains.

Figures 1 and 2 in Annexure B are photographs taken from my lounge room and my bedroom on 30 July. Nothing has been added to either. The ridge marked in red is where the new buildings would go. There is no building visible above the canopy anywhere in either view today.

Figure 3 separates two things that I think are easy to run together. The bushland in the foreground and middle of that photograph, marked in green, is in the valley between my house and the site. It is not part of this application and none of it is proposed for removal. It is a large part of why I am screened today, and I am not claiming otherwise. The red band is the site. Inside that band the applicant proposes to remove 366 of the 620 living trees on the land, and the trees that survive in the southern part of it — the part closest to me — fall inside the Asset Protection Zone and have to be thinned and kept thinned to Rural Fire Service standards for the life of the development.

Figures 4 to 7 are my attempt at showing what would then be visible, from both rooms. I have set them out honestly and written every assumption on each image. They are not survey-verified photomontages and I do not put them forward as though they were. The direction and the scale are measured rather than guessed: there is a mobile telephone tower 354 metres from the house at a bearing of 26.4 degrees, and using it as a fixed reference fixes where everything else in the frame has to sit. The nearest part of Building H is 261 metres away. The two views were calibrated independently of one another and they agree.

I would much rather not have had to do this myself. The applicant has the survey, the 3D model, and a consultant who sets out in his own appendix exactly how camera positions should be verified. He assessed 19 viewpoints and every one of them is a public road, verge, footpath or oval. Not one private house was assessed, from any direction. His nearest viewpoint on my side of the valley is 337 metres from the boundary, which is further away than my house is from the buildings.

The variation is larger than the applicant has disclosed

Before coming to whether the height is justified, I should say that I do not think its size has been stated accurately. The Clause 4.6 reports the largest variation on the site as 6.9 metres, or 60 per cent. But the section drawings annotate a lift overrun 1.30 metres above roof level on every building — Building A's roof is at RL +120.15 and its overrun at RL +121.45 — and the Standard Instrument Dictionary measures building height to the highest point of a building "including plant and lift overruns". Measured the way the LEP requires, Building A stands at about 19.7 metres against a 9.5 metre standard. That is 107 per cent, not 60.

Nor can I find a consistent account of how many storeys are proposed. The applicant describes its buildings as "2-4 storeys" throughout. Drawing DA205 shows Building A with six levels, five of them above existing ground on the southern side. The EIS says "2-5 storey" in one line and "2 to 4 storeys" eleven lines later, and describes Buildings E and F as having "two additional lower part storeys to the south". Every one of those inconsistencies runs the same way.

Why the height is not justified by bushfire

The applicant's case is that the retreat from the fire hazard forces the buildings up. I have read the documents carefully and the changes do not read as being driven by fire risk:

- **Only 16 of the 366 trees being removed are attributed to bushfire.** The arborist's own table puts 116 down to buildings, 58 to roads, 33 to grading and 127 to landscaping. The trees are not going so that the village can be made safe. They are going to make room for the buildings whose height is excused by safety.

- **The independent living component is at the maximum floor space the Housing SEPP allows.** The Clause 4.6 request says the proposal remains “well below the maximum FSR permissible on the site” and offers that as evidence it prioritised safety over yield. The Environmental Impact Statement says the ILU component achieves 0.5:1, and 0.5:1 is the ceiling. Both documents were written by the same firm on the same day.
- **Car parking is admitted as a cause.** The applicant says it “utilises the topography to locate parking at the semi subterranean levels instead of residential uses, instead pushing them above the height limit”. That is a design preference, not a fire safety necessity.
- **No compliant alternative was ever tested.** The alternatives section considers doing nothing, other uses, and the earlier taller schemes. It never considers the same bushfire retreat at a lower yield. Until that has been modelled and shown not to work, the claim that the height is forced is unsupported.

And the buildings do not sit below the canopy, which is what the applicant said they would. Its Scoping Report told the Department that the taller buildings “will sit below the canopy of the trees and not be visible from external locations”. Its arborist has since measured every tree on the site. Of the 254 to be retained, 230 have a recorded height, and the middle one is 12.0 metres. Building A is 18.4 metres. It would stand taller than 206 of those 230 trees.

The staging is the part that worries me most

This is where my time in aged care makes me uneasy, and I would ask the Department to look at it closely even if it rejects everything else I have said.

The whole justification for the height is resident safety. But on the applicant’s own staging table, the demolition of the Flame Zone dwellings — the thing that actually creates the Asset Protection Zone — is Stage 3. It comes after 126 of the 145 new units have been built, occupied and sold. No stage has a completion date. There is no sunset condition. The staging is described as “indicative” and the Construction Staging Plan does not exist yet. Nothing in the exhibited material obliges anyone to ever reach Stage 3.

It is worse than a deferral. Stages 1A and 1B both begin by relocating existing residents into the outer perimeter dwellings. The outer perimeter is the BAL-40 and Flame Zone land. Those are the buildings this application says are unsafe and pre-date modern bushfire construction standards. Residents would be moved into them and kept there through Stages 1A, 1B and 2, on an active construction site, for what the EIS calls “a number of years”.

The Social Impact Assessment deals with this once. It rates it “Low-Medium negative” and describes it as “short-term disruption to residents’ established routines and living arrangements”. Bushfire is not mentioned.

And it is during those same years that the way out is the worst. Stage 1A involves the “staged removal of the existing loop road” and the “staged construction of new loop road”, plus a temporary alignment road to the garage entry. So at the very time residents are living in the flame zone buildings, the internal road they would leave along is being pulled up and rebuilt around them. Table 6.8b of Planning for Bush Fire Protection 2019 requires this class of development to have perimeter roads separating it from the hazard, connection to the wider network, and no dead ends. Nothing I can find in the exhibited documents shows

those requirements are met at any point during the staging, and the evacuation plan is not required until the occupation certificate — that is, after the construction years are over.

I have spent enough time around aged care operators to know that a plan like this is not unusual and not sinister. It is what happens when a redevelopment has to be built around residents who are already there, and I do not doubt that the people writing it care about the outcome.

But look at what is actually proposed. Frail people are to be moved into the buildings this application itself calls unsafe, kept there for several years while the road they would escape along is dug up and rebuilt around them, and the risk to them recorded as an inconvenience to their routines. The Special Fire Protection Purpose provisions exist for precisely these residents — people who, in the words of Planning for Bush Fire Protection 2019, "may be unable to self-evacuate". They are the ones this scheme places nearest the fire and last in the queue for the protection that is supposed to justify it.

If the hazard is real enough to justify a 60 per cent height variation, it is real enough to be removed before anyone is moved towards it.

Two things about the hazard I would ask the Department to check

I am not a bushfire consultant and I put these as questions, not conclusions.

The only numerical evacuation analysis I can find in the exhibited material is in the traffic report. It concludes that a bushfire evacuation would generate 170 vehicles and that Stanhope Road has the capacity to carry them, at a volume-to-capacity ratio of 0.23. That is a road capacity calculation. It assumes the residents get into cars and drive away. The whole reason seniors housing is treated as a Special Fire Protection Purpose is that occupants "may be unable to self-evacuate". Whether Stanhope Road is wide enough is not the question. Whether a frail resident on the fourth floor can get down and out is the question, and I cannot find it answered anywhere.

The second is the hazard itself, and here I would ask the Department to look at something the application never mentions.

The Bush Fire Risk Management Plan for this district assessed this site by name. In the 2016-2021 plan, asset 76 is "Lourdes Retirement Village, Killara, 95 Stanhope Rd, Killara", and the three columns recording the risk read: Likelihood, Likely. Consequence, Catastrophic. Risk rating, Extreme. Priority band 1B. The plan then set three treatments against it, including treatment 514, "Undertake mosaic burn in SFAZ", and treatment 515, which made the village operator responsible for developing, implementing and reviewing a bushfire emergency plan across 2018/19, 2019/20 and 2020/21.

The plan that replaced it, which commenced in 2023, is structured quite differently. It has no per-asset treatment register and no programmed years at all. Neither Lourdes nor Stanhope Road nor any retirement village or aged care facility appears anywhere in it. Killara appears only as the location of two Neighbourhood Safer Places, and Killara is not inside any of the plan's six Focus Areas. An asset previously rated Extreme with a Catastrophic consequence now has no entry of any kind.

What is the current fuel state of the bushland on the other side of the Asset Protection Zone — is not answered anywhere in the application. And the State record suggests why that matters.

The NSW fire history dataset, which maps fire polygons across all tenures, holds one relevant record near this site: a hazard reduction burn or off-park fire named “100 Stanhope”, Object ID 264116, ignited at 10am on 16 October 2004. 100 Stanhope Road is on the northern side of the road. It is not in the bushland to the south and east that actually threatens this development. For that bushland, no fire of any kind — wildfire or prescribed burn — appears in the dataset at all.

I am careful here: an absence of record is not proof that nothing has burnt, and older fires on council land can be under-recorded. But it is the authoritative State dataset, and if the applicant or the RFS says the southern bushland has been treated, they can produce the record. It should not fall to a resident to prove the negative.

This matters because under Planning for Bush Fire Protection the required Asset Protection Zone is calculated from fuel load, and fuel load is a function of time since fire. Sandstone dry sclerophyll forest builds fuel for around two decades before it levels off. Vegetation with no recorded fire is at its maximum. The Department’s own finalisation report for the earlier proposal records this bushland as vegetation Category 1, the highest bushfire risk category under the RFS mapping guide. It also explains why the district plan prescribed a mosaic burn here in the first place.

One more thing, and I think it may have been overlooked

While the earlier planning proposal was before the Department, the bushfire risk at this site was raised in Parliament. On 10 October 2023 the Member for Davidson told the Legislative Assembly what the Minister had said about it:

“The Minister for Planning and Public Spaces advised on 5 July 2023: Any future Development Application submitted for the site must be formally referred to the RFS for its detailed consideration and will require a Bush Fire Safety Authority to be issued by the RFS under s100B.”

That was the assurance given to this community about this site. The Rural Fire Service would look at the application in detail, and would have to issue an authority under section 100B before anything could proceed. For an ordinary development application for a Special Fire Protection Purpose, that advice was correct.

But this application is State significant development. Section 4.14 of the Environmental Planning and Assessment Act, the provision that deals with consent on bush fire prone land, says at subsection (1B): “This section does not apply to State significant development.” And it is the accepted position that a section 100B authority is not required for State significant development authorised by a development consent.

I make no criticism of the Minister — on the pathway being contemplated in 2023, a rezoning followed by a development application, the advice was accurate. And I do not suggest the applicant chose this pathway in order to avoid the RFS; I have no basis for saying that. But the effect is the same either way. The assurance the Minister gave about this site does not apply to the application that has actually been lodged.

If it is right, the RFS role here is advice, not approval, there is no later authority that can refuse this or fix it, and the Department’s determination is the only point at which bushfire safety for this development will ever be tested. Which is precisely why the evacuation plan should not be deferred to the occupation

certificate, and the Asset Protection Zone should not be deferred to Stage 3. Both deferrals assume somebody checks later. On this pathway, nobody does.

What I am asking for

The detail is in the annexure. In summary:

- Refuse the Clause 4.6 height variation in its present form.
- Do not grant consent unless the scheme is amended so that no part of any building, including parapets, plant and lift overruns, projects above the canopy of the retained trees, with the datum taken from the arborist's own measured tree heights and a maximum RL imposed by condition for each building.
- Require the applicant to produce a survey-verified photomontage from private residential viewpoints on this side of the valley, including Northcote Road, and to apply the Tenacity planning principle its own consultant identified and then never used.
- Require the existing canopy coverage, and the existing canopy to be retained, which the Secretary's Environmental Assessment Requirements asked for and the arboricultural report does not provide.
- Require the applicant to model a height-compliant version of the bushfire retreat at a lower yield, and explain why it has been rejected.
- Reorder the staging so the Flame Zone demolition and the Asset Protection Zone come first, tie occupation certificates to certification of the APZ, and impose a sunset condition.
- Ask the Rural Fire Service whether a lower building form on the same footprints would give a better evacuation outcome for frail residents, and whether housing them in the Flame Zone dwellings for the construction period is acceptable.
- Obtain the fire history of the adjoining reserve, establish whether the mosaic burn programmed for this site under the 2016-2021 district plan was carried out, and require the Bushfire Assessment Report to state the time since fire and the fuel load it has assumed.
- State in the assessment report what role the Rural Fire Service has actually had, whether a bush fire safety authority under section 100B will be required given section 4.14(1B), and if not, how the Department has satisfied itself on the matters the RFS would otherwise have examined.

Finally

I have gone to more trouble with this than I expected to, and I want to be straightforward about why. It is not that I object to a retirement village across the valley. It is that when I read the applicant's own documents against each other, they do not agree — on how tall the buildings are, on how many storeys they have, on whether the floor space is at the maximum or well below it, and on whether the buildings sit above or below the canopy. Every one of those disagreements runs in the same direction. I would like the Department to test the figures rather than the summaries.

These residents should get their new village. They should not have to live in the flame zone to earn it.

I would be grateful for the chance to speak to this submission at any public meeting held about the application, and I am happy to make my property available if a proper viewpoint assessment is required from this side of the valley.

I declare that I have not made any reportable political donation or gift in the period relevant to this application.

Scott Savage

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Attached

- Annexure A — Detailed grounds of objection (25 pages)
- Annexure B — Figures 1 to 7, with an index and a note on method (8 pages)