

OUTCOMES COMMITTEE

Meeting Date 10 September 2013

Item Number. 123

SUBJECT: Pre-Gateway Review Request for 131 Polding Street, Fairfield Heights
Applicant/Owner: Peter and Deborah Storok

FILE NUMBER: 11/03497

PREVIOUS ITEMS: 131 Polding Street - Outcomes Committee - 10 May 2011

REPORT BY: Elizabeth Workman, Senior Strategic Land Use Planner

RECOMMENDATION:

That Council:

1. Endorse the original reasons (as detailed under the Background section of the report) adopted by the Outcomes Committee Meeting of 14 May 2013 for refusing the proposal to rezone 131 Polding Street, Fairfield Heights from R3 Medium Density to B2 Local Centre as the basis for a submission to the NSW Department of Planning and Infrastructure (DP&I) under the Joint Regional Planning Panel (JRPP) pre-Gateway Review process.
2. Delegate the Manager Development Planning as Council's nominee on the Sydney West JRPP under the pre-Gateway Review process for this matter.
3. Determine whether it would like to engage a planning consultant to represent Council at any potential JRPP Hearing and to review any reports prepared by the DP&I and make further submissions on behalf of Council on this matter as appropriate.
4. In the event the JRPP support the proposal proceeding to a Gateway determination, request the DP&I provide further clarification in relation to processes covering:
 - 4.1 Appointment of the relevant planning authority to consider the planning proposal given Council's objections to the proposal proceeding.
 - 4.2 Preparation of a planning proposal, including public exhibition, consideration of submissions and further reporting to the relevant planning authority.
 - 4.3 Preparation of site specific and City Wide DCP amendments that are required to regulate future development on the site.

Note: This report deals with a planning decision made in the exercise of a function of Council under the EP&A Act and a division needs to be called.

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SUPPORTING DOCUMENTS:

AT-A	Site Location	2 Pages
AT-B	Advice from the DP&I	2 Pages
AT-C	Previous report to Council	19 Pages

CITY PLAN

This report is linked to *Theme 2 Places and Infrastructure* in the Fairfield City Plan.

SUMMARY

Council has been advised by the NSW Department of Planning and Infrastructure (DP&I) that the owners of 131 Polding Street, Fairfield Heights have requested a pre-Gateway Review in relation to the planning proposal (originally rejected by Council in May 2013) for rezoning of 131 Polding Street, Fairfield Heights from R3 Medium Density Residential to B2 Local Centre under Fairfield LEP 2013.

The intent of the proposal is to facilitate a future three storey mixed use (commercial/residential) development with a floor space ratio (FSR) control for the site of 1.5:1.

Council is invited to provide a submission to the Department in relation to the proposed rezoning and FSR change, which will be considered by the Sydney West Joint Regional Planning Panel (SW JRPP) when determination is given as to whether or not the proposal has merit and should proceed to issuing of a Gateway determination to allow the rezoning to proceed further.

This report outlines issues for referral to the JRPP based on Council officer's best understanding and interpretation of the reasons for refusal of the proposal handed down by the May Outcomes Committee and subsequently endorsed by full Council.

BACKGROUND

On 14 May 2013 Council considered a report (Attachment C) on a planning proposal for 131 Polding Street, Fairfield Heights which proposed to rezone the site from R3 Medium Density Residential zone to B2 Local Centre for the purposes of allowing ground floor commercial premises below shop top housing.

The resolution of the Outcomes Committee (endorsed by full Council) was as follows:

That Council refuse the planning proposal to rezone 131 Polding Street, Fairfield Heights (Lot 4 Section 5 DP 957) to B2 Local Centre for the following reasons:

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- 1.1 *The proposal will set an undesirable precedent for the expansion of land zoned for commercial premises in the Fairfield Heights town centre having regard to the fact there is sufficient land already zoned for commercial uses in this town centre.*
- 1.2 *There is no planning strategy relevant to the Fairfield Heights town centre, which supports rezoning additional sites for commercial uses outside that part of the town centre already zoned for commercial uses. Without an appropriate commercial study of the town centre to justify an expansion of the commercial zoning, it would be premature to proceed with this planning proposal, as it will create a precedent and an expectation of other owners of properties on the fringe of the town centre for further expansion.*
- 1.3 *The existing locality in Polding Street is already affected by adverse traffic impacts and any expansion of the town centre needs to have regard, not only to the commercial implications but also traffic management in the locality. Given these existing adverse traffic conditions in Polding Street and the adjoining streets, the proposal is not supported on the grounds of traffic.*

Council formally notified the applicant of the refusal to prepare the planning proposal by letter on 14 June 2013. On 26 August 2013, Council subsequently received advice from the NSW DP&I (Attachment B) stating that the proponent had requested a pre-Gateway Review from the Department as Council did not support preparation of a planning proposal to rezone the subject site from R3 Medium Density to B2 Local Centre.

PRE-GATEWAY REVIEW REQUEST PROCESS

A pre-Gateway review may be requested by a proponent if a council has not supported, or not made a decision within 90 days, on a planning proposal. The Department considers if the request has demonstrated strategic merit, and if so, the matter will be referred to the relevant JRPP for further consideration, in this case the SW JRPP.

The panel is responsible for providing advice to the Minister on whether or not the matter should proceed to the Gateway. Council is invited to provide its views about the proposal and these will be taken into consideration by the Department and the SW JRPP when considering whether or not to support the proponent's request for rezoning of 131 Polding Street, Fairfield Heights from R3 Medium Density Residential to B2 Local Centre.

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Should the Department determine that the proposal has strategic merit, Council may appoint a technical and community representative to sit on the Panel when the matter is considered. Previously, Council's Manager - Strategic Land Use Planning has been appointed to the Panel as a technical representative.

As this matter has been previously recommended for approval by Council's Strategic Land Use Planning section it would be considered appropriate for Council's Manager – Development Planning be nominated to sit on the JRPP under the Gateway review. It is important to note that under the JRPP Charter, in performing this task Council's nominee is required to objectively consider issues relating to the proposal on their merits.

The current appointed Community Representative (Councillor) as previously resolved by Council, would also be invited to attend the SW JRPP meeting.

ISSUES FOR INCLUSION IN COUNCIL SUBMISSION TO THE DEPARTMENT

The issues relating to Council's rejection of the proposal are set out below. It should be noted that the detailed comments provided below are based on Council officers interpretation and understanding of the reasons for refusal of the proposal made by Council.

1. Undesirable Precedent

Council identified that there are a number of additional sites which have similar land use and development characteristics to that of 131 Polding Street, Fairfield Heights.

There is a possibility that many of these sites could also support development for a higher residential and/or business form. Rezoning of 131 Polding Street, in the absence of any current strategic land use and development framework (see under next section), could potentially set an undesirable precedent for each of these sites to seek redevelopment in an ad-hoc, piecemeal manner.

This is something which Council would want to avoid as it could potentially hinder future redevelopment of the Town Centre and surrounding residential land in a cohesive manner.

2. Lack of a current relevant Strategic Planning Study and Development Control Plan for the Site and Fairfield Town Centre as a whole

The existing Fairfield Heights Town Centre DCP which applies to the Town Centre was originally implemented in 1995 and has had no significant strategic review since its original adoption.

Planning controls for the centre are dated and whilst it is acknowledged that the centre and surrounding residential area may have additional development potential, a comprehensive strategic review should be completed which encompasses the entire Town Centre and adjoining residential lands. The findings of such a review should then inform future zoning and desired development patterns in and around the Fairfield Heights Town Centre.

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Council's Standard Instrument LEP has recently come into force which mandates neighbourhood shops in a number of zones including the R1 General Residential, R4 High Density Residential and Industrial zones. At this stage there is uncertainty regarding the degree of impact neighbourhood shops will have on the demand for additional zoned commercial lands in the locality and as such does not support the rezoning of 131 Polding Street, Fairfield Heights at this time.

Previously, Council officers utilised the existing 2005 Fairfield City Retail and Commercial Centres Policy in the assessment of the proposal to rezone 131 Polding Street. Council has resolved to undertake a review of this Study in the near future (currently identified in Council's work program and awaiting determination of a funding application from the Department) and it is anticipated this review will provide the framework for broader consideration of any future proposals for the expansion of commercially zoned land in the City.

In addition to the above, at this stage a comprehensive review has not been undertaken of built form and urban design issues for the Fairfield Heights Town Centre to determine the most desirable directions for future growth and potential expansion of the Centre. Issues such as the potential and desired nature for infill development and urban renewal in and around the centre are yet to be fully analysed and understood.

3. Lack of Appropriate Traffic Management Plan

As a result of the need for a broader review of strategic land use planning directions for the town centre (above), any rezoning of land in or around the town centre should be accompanied by a comprehensive review of traffic management issues.

This Plan will assess the impact of strategically determined future land uses, development capacity of the area and any traffic management measures required to deal with future growth within and around the Fairfield Heights Town Centre.

4. Application of an FSR to the Subject Site

Under the pre-Gateway Review process, the applicant also is seeking an amendment to the FSR requirements that apply to the site. Under clause 4.4 of Fairfield LEP 2013 the site is currently restricted by an FSR of 0.45:1. In addition to the rezoning, the proponent has requested the FSR be amended to 1.5:1.

Should the rezoning proposal gain support from the Department and SW JRPP and proceed to the Gateway, Council would request that the FSR restrictions be removed altogether as this would ensure consistency with the existing Fairfield Heights Town Centre and majority of other land zoned B2 under Fairfield LEP 2013, which do not have an applicable FSR. Existing height restrictions of 9 metres under Clause 4.3 of Fairfield LEP 2013 would remain.

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Following consideration of Council's issues it is understood the DP&I will prepare a detailed report on the merits of the proposal and look at scheduling a meeting for the JRPP.

Once a date for this meeting is determined, Council will be notified and the community (Councillor) and technical (Manager Development Control) representatives invited to attend.

As part of the process normally Council officers would also make a presentation to the JRPP providing further background and justification for the reasons for Council's refusal of the proposal.

In this instance Council officers are not in the position to perform this role having recommended that Council support the preparation of a planning proposal for site. Should Council wish to be represented at the SW JRPP hearing it will be necessary to engage a planning consultant to perform this function.

In addition to the above, if the JRPP recommend the proposal proceed further it is unclear how this process will work (e.g. who will be the relevant planning authority) and how this will impact on Council's current position on the proposal.

Accordingly, the recommendations to this report also seek further clarification from the DP&I in relation to the processes associated with the Gateway determination and planning proposal should the SW JRPP decide that it should proceed.

CONCLUSION

Council has received notification from the DP&I that the proponents of 131 Polding Street, Fairfield Heights have requested a pre-Gateway Review determination in relation to the proposal to rezone the site from R3 Medium Density Residential to B2 Local Centre.

The issues detailed in this report reflect Council officers understanding and interpretation of the reasons underpinning Council's refusal of the rezoning proposal for 131 Polding Street, Fairfield Heights to form the basis of Council's submission to the Gateway Review being undertaken by the DP&I.

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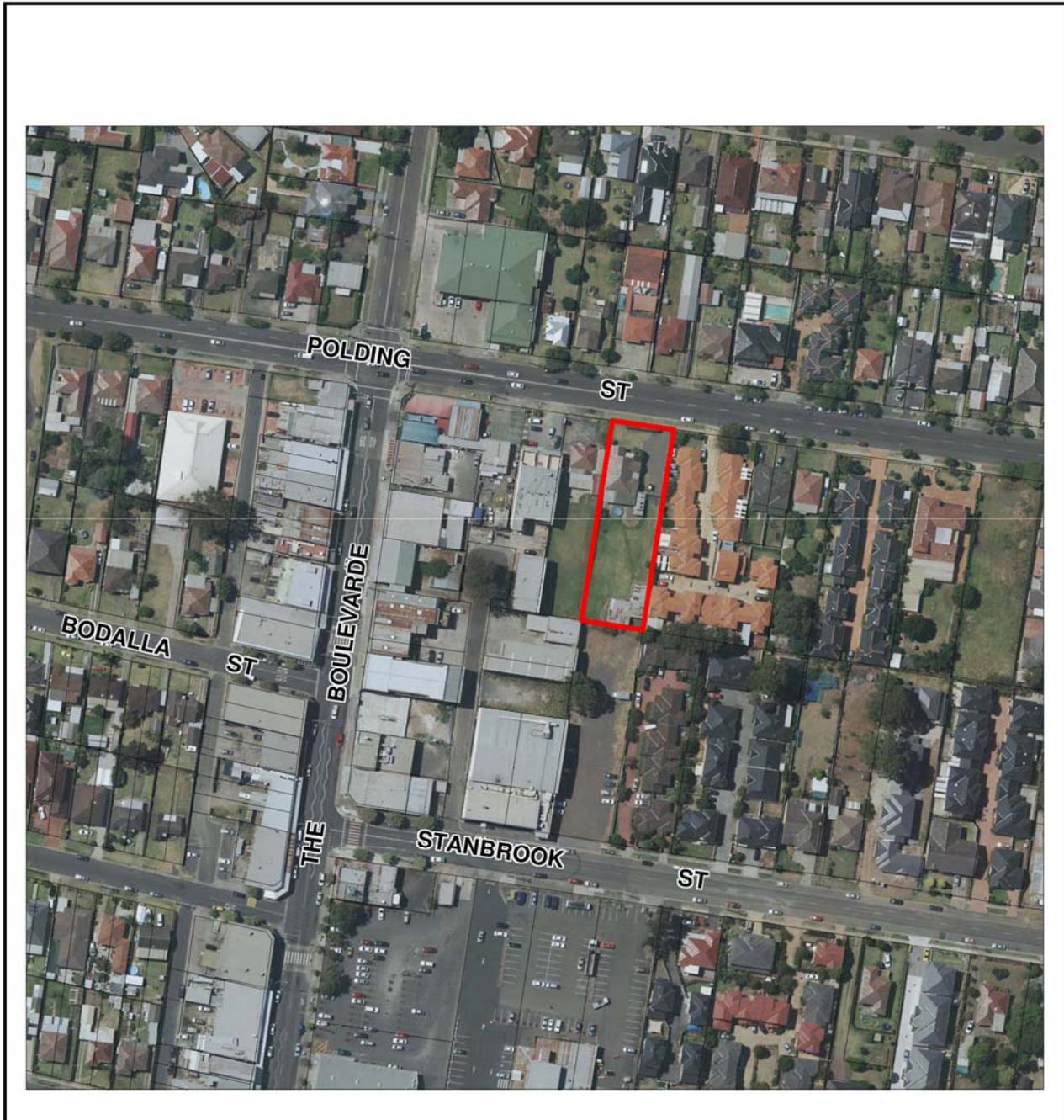
Elizabeth Workman
Senior Strategic Land Use Planner

Authorisation:
Manager Strategic Land Use Planning
Group Manager City Development

Outcomes Committee - 10 September 2013

File Name: **OUT100913_26.DOC**

***** END OF ITEM 123 *****



AERIAL PHOTO

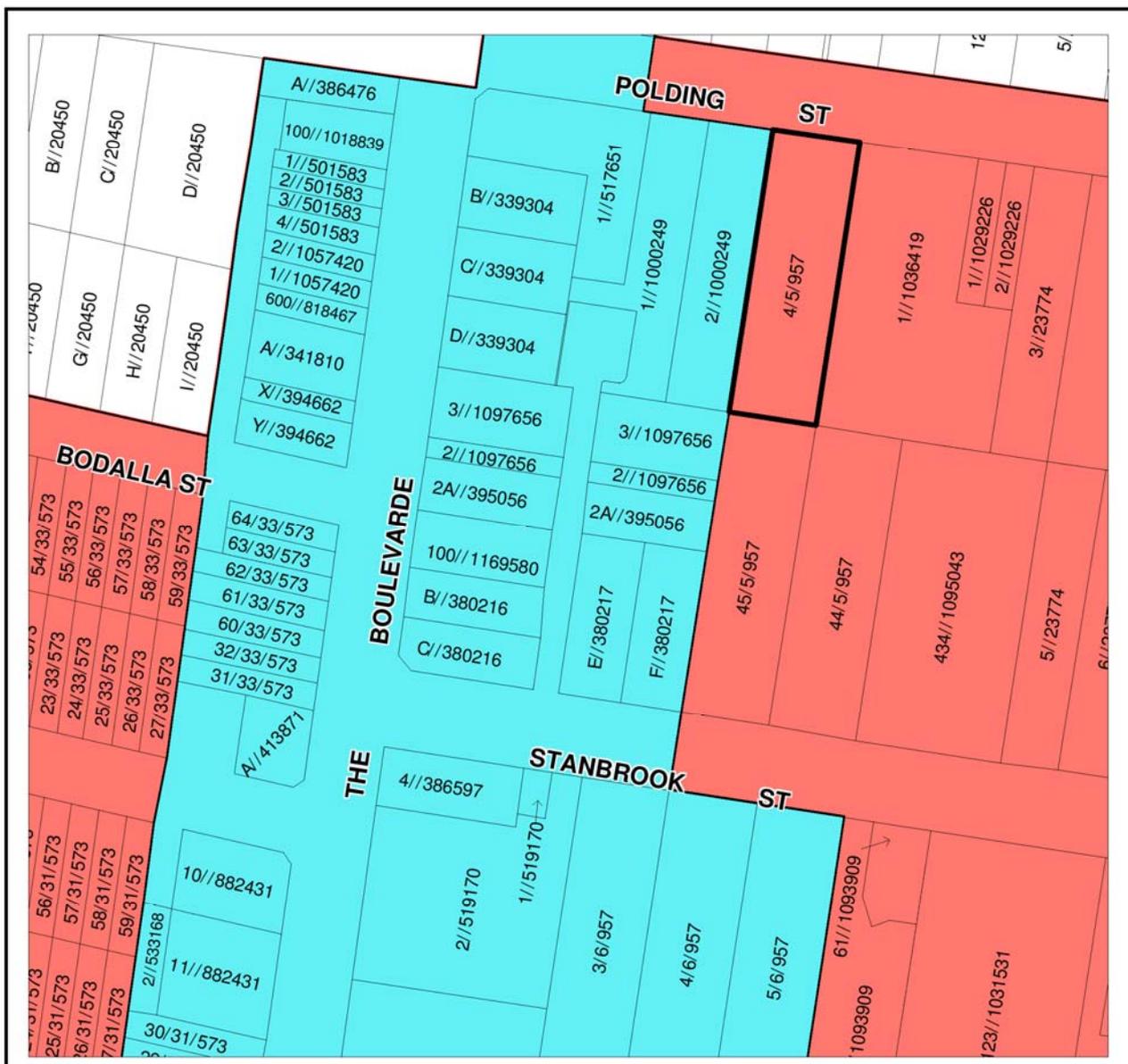


Lot 4 Section 5 DP 957
otherwise known as 131 Polding Street, Fairfield Heights



Scale 1:2000

4/9/2013



EXTRACT - FAIRFIELD LOCAL ENVIRONMENTAL PLAN 2013

-  Lot 4 Section 5 DP 957 otherwise known as 131 Polding Street, Fairfield Heights
-  B2 B2 Local Centre
-  R3 R3 Medium Density Residential
-  DM Deferred Matter



Scale 1:1500

4/9/2013



**Planning &
Infrastructure**

FAIRFIELD CITY COUNCIL

26 AUG 2013

TO:	J Assuncao
FILE:	11703497
DOC ID:	
CRM:	
SCAN DATE:	

Mr Alan Young
City Manager
Fairfield City Council
PO Box 21
FAIRFIELD NSW 1860

Our ref: qA260852
Contact: Claire Mirow
Phone: (02) 9860 1125
Email: claire.mirow@planning.nsw.gov.au

Attn: Mr Julio Assuncao

Dear Mr Young

**Re: Request for Pre-Gateway Review
(Notification to Council of Request for Review)**

I am writing to notify Council that a pre-Gateway review request, dated 23 July 2013, regarding the proposed instrument as detailed below, has been submitted to the Department of Planning and Infrastructure (the 'Department') for consideration.

Dept. Ref. No:	PGR_2013_FAIRF_001_00
LGA:	Fairfield
LEP to be Amended:	<i>Fairfield Local Environmental Plan 2013</i>
Address/ Location:	131 Polding Street, Fairfield Heights (Lot 4, Section 5 in DP957)
Proposed instrument:	Proposed amendment to the Fairfield Local Environmental Plan 2013, to rezone the subject land at 131 Polding Street, Fairfield Heights to B2 Local Centre and apply a floor space ratio (FSR) control of 1.5:1 to this site. The intent of this proposal is to facilitate future mixed use development on the site.

The request states that the proponent is seeking a pre-Gateway review as the council has notified the proponent that the request to prepare a planning proposal has not been supported.

Council is invited to provide its views about the proposal. Any views and response must be submitted no later than 21 days from the date of this notification and sent to the Sydney West Regional Office of the Department of Planning and Infrastructure (the 'Department').

The views of Council will be taken into consideration by the Department and the Joint Regional Planning Panel when considering whether to support the proponent's request for the matter to proceed to Gateway. Council should, therefore provide all relevant information to demonstrate why Council resolved not to support the proposal.

The Department's '*A guide to preparing local environmental plans*' provides advice on procedures for the various stages in the independent review process. This guide is available online at www.planning.nsw.gov.au/gateway-process.

You can check the progress of this request for review on the LEP Tracking System at www.leptracking.planning.nsw.gov.au/default.aspx.

Should you have any questions in regard to this matter, please contact Claire Mirow of the Department's Sydney West Regional Office on (02) 9860 1125.

Yours sincerely

 19/8/2013

Rachel Cumming
Acting Regional Director
Sydney West Region

Department of Planning & Infrastructure, Sydney West Region

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