

Planning Proposal to remove the existing Minimum Lot Size notation from twelve (12) properties zoned IN1 General Industrial from the Minimum Lot Size Maps of the Wingecarribee Local Environmental Plan 2010 at Braemar

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### **Planning Proposal**

LOCAL GOVERNMENT AREA: WINGECARRIBEE SHIRE COUNCIL

ADDRESS OF LAND: The 12 properties affected by the Planning Proposal are

PN 451900	Lot 15 DP 263904	20 Drapers Road, Braemar.
PN 1783870	Lot 1 DP 1181633	22 Drapers Road, Braemar
PN 1764450	Lot 22 DP 263904	Road Reserve, Drapers Road, Braemar
PN 1764450	Lot 23 DP 263904	Road Reserve, Drapers Road, Braemar
PN 1764450	Lot 24 DP 263904	Road Reserve, Drapers Road, Braemar
PN 451400	Lot 5 DP 10008	10 Drapers Road, Braemar
PN 451500	Lot 6 DP 10008	'Hillcrest' 12 Drapers Road, Braemar
PN 451600	Lot 7 DP 10008	14 Drapers Road, Braemar
PN 451700	Lot 8 DP 10008	16 Drapers Road, Braemar
PN 451800	Lot 9 DP 10008	'Wyeena' 18 Drapers Road, Braemar
PN 1760190	Part Lot 72 DP 86918	89'Ravensdale' 102 Old Hume Highway Aylmerton
PN 452100	Lot 32 DP 831268	Hume Highway (Part of F5 Motorway)

The above twelve (12) properties comprise two areas (outlined in black below) of the Braemar Industrial Precinct zoned IN1 General Industrial under Wingecarribee Local Environmental Plan 2010 (Draft Plan attached).



Figure 1 Locality Map







Figure 6: The notation of 17 is EEC: Southern Highlands Shale Woodlands



Figure 7: Riparian Corridors: Blue; Category 3 Bank Stability, Green Category 2 Aquatic and Terrestrial Habitat

#### PART 1 - OBJECTIVES OR INTENDED OUTCOMES OF PLANNING PROPOSAL

The intended outcome of the Planning Proposal is a 'no minimum lot size' notation for land recently (24 June 2011) rezoned to IN1 General Industrial under Wingecarribee Local Environmental Plan (WLEP) 2010.

The objective is to achieve a consistent minimum lot size notation for industrial land as all other IN1 General Industrial zoned land under WLEP 2010 does not have a minimum lot size.

#### PART 2 – EXPLANATION OF PROVISIONS

The Planning Proposal will amend Wingecarribee LEP 2010 Minimum Lot Size Map number LSZ-007i by removing the Z2 (4 Ha) and AB2 (40 Ha) notations for the respective properties. The intention is so that no minimum lot size is indicated on the Minimum Lot Size Map for the twelve (12) subject properties zoned IN1 General Industrial under Wingecarribee LEP 2010, identified above.

The primary focus of the amendment is to remove Minimum Lot Size notations from private land recently zoned IN1 General Industrial under Wingecarribee LEP 2010, however there are some road reserves and 'Part' lots (Lot 72) included to provide consistency between the zoning map and the intended Minimum Lot Size map and to amend the existing Minimum Lot Size map accordingly.

The mapping amendments as indicated at Figure 5 above are described below.

Map to be amended	Nature of map amendment
LSZ_007I	Remove the Minimum Lot Size notation for the subject twelve
	(12) properties in the IN1 General Industrial zone of the
	Wingecarribee LEP 2010 at Braemar

#### PART 3 - JUSTIFICATION

The amendment is required because the twelve (12) identified properties in the Braemar Industrial Precinct were recently (24 June 2011) rezoned from RU2 Rural Landscape to IN1 General Industrial as part of Amendment No 2 under Wingecarribee Local Environmental Plan (WLEP) 2010. There was however no concurrent amendment made to the Minimum Lot Size map. The reason the minimum lot size notation is to be removed is because Wingecarribee Shire Council has a consistent policy that there is to be no minimum lot sizes applicable to land zoned IN1 General Industrial under WLEP 2010. The proposed amendment will therefore notate a consistent minimum lot size with other land zoned IN General Industrial across the Shire under Wingecarribee LEP 2010.

#### Section A – Need for the Planning Proposal

#### 1. Is the Planning Proposal the result of any strategic study or report?

The subject Planning Proposal is a corollary of the *Report of the Panel into the Northern Gateway Strategy* 2008 authored by Dr Andrew Refshauge and Dr John Whitehouse. This plan acknowledges that Braemar represents the Northern Gateway to the Shire.

The conclusion of that report was inter alia 'To rationalise, consolidate and increase the amount of industrial and employment lands to form a single and contiguous unit rather than three separate unrelated areas by deleting the industrial land on the Knox Site and zoning the rural lands east of Braemar Industrial Area plus some lands west of Drapers Road to Industrial and Employment uses'.

The subject lands are those identified by the conclusion of the report as the lands west of Drapers Road.

Amendment 2 of the Wingecarribee Local Environmental Plan 2010, enabling the Northern Gateway Strategy amendments, was published by the Department of Planning & Infrastructure on 24 June 2011.

The subject Planning Proposal is required because of a mapping notation inconsistency that incorrectly identifies industrial land as having a minimum lot size development standard that is inconsistent with Council's industrial development policy.

### 2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There are two (2) options available to achieve the desired outcome. The second option would not require an amendment to the minimum lot size map.

#### Option 1 Preferred Option

This option, to achieve the intended outcome, is to remove the minimum lot size notation from WLEP 2010 Minimum Lot Size map (LSZ\_007i) for the subject lands. This method of achieving the desired outcome requires a Planning Proposal, so that mapping notations identifying the properties as having no minimum lot size and provide

proponents with correct information that is consistent with other industrial lands with the IN1 General Industrial zoned land under Wingecarribee LEP 2010. This would therefore provide consistent reading, interpretation and application of Council's policy with regard to industrial zoned land and more particularly subdivision.

Option 2 Retaining the existing Minimum Lot Size and applying Clause 4.6 Exception to development standards

Clause 4.6 of Wingecarribee allows exceptions to development standards. The development standards that apply to the subject land are identified on the current Minimum Lot Size map as Z2 (4 Ha) and AB2 (40 Ha) whereby, if these standards were strictly applied, industrial subdivisions could not be approved where lots are below these minimum lot sizes (Z2 and AB2).

Clause 4.6 allows exceptions to development standards, whereby lots could be considered for industrial subdivision that are below the stated minimum lot size development standard. This may be a satisfactory short term measure however eleven (11) of the twelve (12) properties are already below the existing minimum lot size applicable to the land therefore development applications for subdivision on most of the properties would need to include applications under Clause 4.6 for an exception to the development standard.

It should be noted that the 90% variation permitted by Clause 4.6(6) does not apply to IN1 General Industrial zoned land so an exception below the 90% can be considered to the minimum lot size standards.

The nature of industrial land use applications, and specifically subdivision, generally means that either a number of smaller lots or one large lot are proposed. Processing numerous development applications including applications lodged against Clause 4.6 would not be conducive to the timely assessment of development applications for subdivision.

To expedite applications for industrial subdivision, it is simpler to remove the existing minimum lot size notation therefore removing the additional administrative function of requiring applications to be assessed under Clause 4.6 of the WLEP 2010. Further it allows the consistent reading, interpretation and application of Council's development policy for IN1 General Industrial zoned land under Wingecarribee LEP 2010.

It should also be noted that there is no certainty as to when future development applications would be received. The timing of future development applications will depend on the intentions of landowners and the timeframes by which they determine to capitalise on the upzoning of land uses now permissible in the IN1 General Industrial zone under Wingecarribee LEP 2010 following Amendment 2 being made.

Not amending the Minimum Lot Size map of the Wingecarribee LEP 2010 would mean preliminary investigations into that land development potential could be redirected to other land with more flexible development standards (no minimum lot size). Diverting attention away from the subject land would prolong the timely development of the recently rezoned land.

#### Section B – Relationship to strategic planning framework

3. Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including draft strategies)?

#### Sydney Canberra Corridor Regional Strategy (SCCRS)

The Planning Proposal is consistent with the *Sydney - Canberra Corridor Regional Strategy* that applies to the Wingecarribee Shire Local Government Area. The Planning Proposal is considered consistent for the following reasons.

 The Economic Section of 'Regional Challenges' (P8) outlines that opportunities should be provided for industries and businesses to establish and to provide employment opportunities that can reduce journey to work times and minimise commuting out of the Region and take advantage of transport link to markets. 'The Regional Strategy is unable to directly influence these factors (available workforce, access to markets, capital and entrepreneurial skills), but it can ensure that there is adequate housing and employment land to provide opportunities for newly establishing, growing or relocating businesses.'

The subject amendment seeks to remove a mapping notation that would create an obstacle to investment and the supply of suitable industrial land of various sizes for establishing, growing and relocating businesses that are looking at locations to develop themselves or for other smaller businesses to start up by, for example, the creation of multi-unit complexes.

- P9 'Build the vitality and capability of centres within the (Sydney Canberra) corridor so they can provide employment opportunities for necessary service industries, as well as the incubation of new industries and businesses. The subject lands will provide opportunities for the necessary service industries to establish by encouraging the creation of smaller lots that can be offered for sale or lease at an affordable price. The Planning Proposal will provide a degree of flexibility to facilitate the vitality and capability of the existing industrial zoned land.
- ACTIONS (p26): 'Local environmental plans are to include appropriate provisions to facilitate employment growth in the nominated major regional centres, town and villages, including as home based employment.' Including the provisions to facilitate employment growth includes removing those that restrict or constrain employment growth. The subject Planning Proposal is considered to amend the WLEP 2010 to provide 'appropriate provisions to facilitate employment growth' by removing constraints to development.
- ACTIONS (p26): 'Council based mechanisms or controls will be identified to preserve and support the identified hierarchy of commercial centres for the Region'. The amendment to the WLEP 2010 is considered to preserve and support the existing retail centre as endorsed by the rezoning of the subject land through Amendment 2 of the WLEP 2010 by locating suitable industries (in terms

of both scale and type) that will support the *identified hierarchy of commercial centres* from the subject location.

- The subject Planning Proposal supports the figures contained in *Table 1 Additional Employment lands* (p27) where the Northern Subregion is to provide 75 hectares of additional employment land. While the subject Planning Proposal won't provide additional employment land, it will provide the opportunity for suitably sized lots for purchase at an affordable price from the existing IN1 General Industrial zoned land.
- At p29 of the SCCRS, the strategy states that Mittagong is a Major Town. The subject Planning Proposal is consistent with this statement as the subject land has a role to play in supporting local and district services and facilities that provide the general range of weekly and some higher order business services.
- APPENDIX A1 (4) Employment Lands: It is considered that the subject lands are part of the major regional centres (p27). The subject Planning Proposal maintains and improves the existing level of sub regional employment self containment of the *Measurable explanation of criteria*, while being able to take advantage of transport links of the South Western Freeway to goods and service markets.
- APPENDIX A1 (4) Employment Lands: It is further considered that, although the subject Planning Proposal is not for rezoning, it removes an obstacle to be considered in development applications for Industrial Subdivisions.

## 4. Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

The Planning Proposal is consistent with the following Strategic Plans that have either been adopted by Council or endorsed as strategic reference documents.

- Wingecarribee Our Future 2002
- Wingecarribee Community Strategic Plan 2031+
- Northern Gateway Strategy (Department of Planning & Infrastructure supported 9 January 2009))

The above documents contain themes including:

- Economic Development; the support and provision of suitable land for emerging and developing industries.
- Provisions of employment lands; including removing restrictions for development of employment lands.
- Strategic Location of employment lands; locating employment lands close to labour markets and goods and service markets.

These common themes are closely aligned with the strategies contained in the Sydney-Canberra Corridor Regional Strategy 2006-2031 as discussed in Item 3 above. Thus for the same reasons, the Planning Proposal is consistent with the Sydney Canberra Corridor Regional Strategy. The Planning Proposal is considered consistent with the above listed local strategies.

### 5. Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

#### State Environmental Planning Policy No. 44 - Koala Habitat Protection

SEPP 44 applies to all land within the Wingecarribee Local Government Area and the site contains an Endangered Ecological Community (EEC) consisting of Southern Highlands Shale Woodland. The subject Planning Proposal will not directly have an affect on the integrity of the existing EEC vegetation. Any impact on vegetation has previously been considered as part of the Northern Gateway Strategy (WLEP 2010 Amendment 2). Further to this, any impact on existing vegetation will be considered as part of any future development application assessment under the Threatened Species Conservation Act 1995.

#### State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The Planning Proposal is considered to be consistent with the State Environmental Planning Policy (SEPP) Sydney Drinking Water Catchment (SDWC) 2011. The subject land was referred to the Sydney Catchment Authority (SCA) for comment as part of the Northern Gateway Planning Proposal to rezone the subject land from zone RU2 Rural Landscape zone to zone IN1 General Industrial under Wingecarribee LEP 2010. The subject application was referred to the Sydney Catchment Authority (SCA) on 12 June 2013.

The SCA advised in response to the current referral that:

'SLWCA (Strategic Land and Water Capability Assessment) outcomes show that light industrial development on the subject land would pose a moderate risk to water quality in general. However, the SCA notes that there are parts of the land that contain vegetation and intermittent watercourses that run through the land (Figure 7). These are limiting factors to any potential future development that will need to be taken into account at the subdivision design and development stages if a neutral or beneficial effect is to be achieved. We refer Council to the SCA's Neutral or Beneficial Effect on Water Quality Guidelines available on the SCA's website (provided) for the assessment of future subdivision development.

While the comments from the SCA are noted, they are not considered an impediment to the subject Planning Proposal.

#### State Environmental Planning Policy (Infrastructure) 2007

Section 104 of the SEPP (Infrastructure) 2007 requires traffic generating industrial development greater than 20,000 sqm (2 Ha) with direct access to any road proposed to be referred to the Roads and Maritime Services (RMS) for consideration. The scale of development requiring referral however is irrespective of the minimum lot size of the IN1 General Industrial zone under Wingecarribee LEP 2010. The referral requirements

under Section 104 of the SEPP (Infrastructure) 2007 will therefore continue to apply to the IN1 General Industrial zone land under Wingecarribee LEP 2010.

#### State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Subdivision 2.75 of the SEPP (Exempt and Complying Development Codes) 2008 (the Codes SEPP 2008) applies to the subject land. With regard to the subject Planning Proposal, any application subject to Section 2.75 of the Codes SEPP 2008 can only be for a minor realignment of boundaries.

Part 5 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides the majority of controls relating to Industrial and Commercial development on IN1 General Industrial zoned land. With the exception of the above Clause, the controls contained in this part do not relate to any restriction on Minimum Lot Sizes. It is therefore considered that the subject Planning Proposal is satisfactory with regard to the above Codes SEPP 2008.

#### 6. Is the Planning Proposal consistent with applicable section 117 Directions?

An assessment of the 117 Directions has been undertaken in respect of the Planning Proposal. All relevant Directions are addressed as follows:

#### 1. Employment and Resources

#### 1.1. Business and Industrial Zones

This Direction applies to the subject IN1 General Industrial zoned land. The Planning Proposal is considered to be consistent with this direction as it encourages employment growth in a suitable location, does not reduce employment land in existing business and industrial zones and will not have an adverse impact on the viability of identified strategic centres.

- 1.2. Rural Zones Not relevant
- **1.3.** Mining Petroleum and Extractive Industries Not relevant
- 1.4. Oyster Aquaculture Not relevant
- 1.5. Rural Lands Not Relevant

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#### 2. Environment and Heritage

#### 2.1. Environment Protection Zones

This Direction applies as the land is otherwise identified for environmental protection, as there is a community of identified EEC (Southern Highlands Shale Woodland) located on the site. The impact of industrial development on the identified community has been considered previously in the Planning Proposal (the Northern Gateway Amendment 2) to rezone the subject land from RU2 Rural Landscape to IN1 General Industrial zone under Wingecarribee LEP 2010. The impact of industrial development on the identified EEC will be assessed during the development assessment process. The subject Planning Proposal is considered to have no additional impact on the Endangered Ecological Community.

- 2.2. Coastal Protection Not relevant
- 2.3. Heritage Conservation Not relevant
- 2.4. Recreation Vehicle Area Not relevant

#### 3. Housing, Infrastructure and Urban Development

- 3.1. Residential Zones Not relevant
- 3.2. Caravan Parks and Manufactured Home Estates Not relevant
- **3.3.** Home Occupations Not relevant
- 3.4. Integrated Land Use and Transport

This Direction seeks to achieve the objectives of improved access and the choice of alternative transport modes to housing jobs and services, reducing the dependency on cars, reducing travel demand, supporting the efficiency and viability of public transport services and the efficient movement of freight.

The subject Planning Proposal is currently serviced by a private bus service and local road cycleways are also available. The subject Planning Proposal will also give effect to reducing the journey to work car trips out of the Wingecarribee Shire and the proximity of the subject lands to the Hume Highway M5 Motorway will provide for the efficient movement of freight by Heavy Goods Vehicle.

The subject Planning Proposal is therefore considered to be consistent with this Local Planning Direction.

#### 3.5. Development Near Licensed Aerodromes – Not relevant

3.6. Shooting Ranges – Not relevant

#### 4. Hazard and Risk

- 4.1. Acid Sulfate Soils Not relevant
- 4.2. Mine Subsidence and Unstable Land Not relevant
- 4.3. Flood prone Land

The subject land is not annotated on Wingecarribee Local Environmental Plan 2010 'Flood Planning Area Map'. The subject land is noted as containing riparian land. Any future development applications will need to establish effective measures for managing overland flows and runoff.

#### 4.4. Planning for Bushfire Protection

This Direction applies to the Planning Proposal as the subject land is mapped as being bushfire prone.

Part 6(f) of this Local Planning Direction refers to the introduction of controls on the placement of combustible materials in the Inner Protection Area. The placement of combustible materials on the site would be considered as part of the assessment of any specific development application in particular the proposed use of the site. That is, the nature of materials (including but not limited to combustible materials) used on the site is considered as part of any development application, therefore the placement of these materials on any particular site is undertaken at the development application stage.

Should the Gateway Determination be made in favour of this Planning Proposal it will need to be referred to the NSW Rural Fire Service for comment. Therefore, at this stage the Planning Proposal is considered to be justifiably inconsistent pending further studies (if required) and is recommended for referral to the NSW Rural Fire Service for comment.

#### 5. Regional Planning

#### 5.1. Implementation of Regional Strategies

This Direction applies to the Planning Proposal in respect of the Sydney Canberra Corridor Regional Strategy 2006 – 2031. The Planning Proposal is considered consistent with this Direction as discussed previously in this report under Section B (3) and (4).

#### 5.2. Sydney Drinking Water Catchment

This Direction applies to the Planning Proposal as the Wingecarribee Shire Local Government Area falls within the Sydney Drinking Water Catchment. The planning proposal is considered consistent with this Direction as the SCA has been previously consulted and provided comments as detailed in Section 5 of this report.

#### 5.3. Farmland of State and Regional Significance on the NSW Far North Coast – Not relevant

- 5.4. Commercial and Retail Development along the Pacifica Highway Not relevant
- 5.5. Revoked
- 5.6. Revoked
- 5.7. Revoked
- 5.8. Second Sydney Airport: Badgery's Creek Not relevant

#### 6. Local Plan Making

#### 6.1. Approval and Referral Requirements

This Direction applies to all Planning Proposals. The Planning Proposal is considered to be substantially consistent with this clause, as the resulting development applications will not require additional concurrence, consultation or referral to the Minister of Infrastructure and Planning or any other agency over and above those that already exist under other planning instruments.

Although the resulting development applications may require referral to public authorities, such as the NSW Rural Fire Service or the Sydney Catchment Authority, as required at the time of the lodgement of development applications, such referrals will not be the result of any proposed changes to the WLEP 2010 contained in this Planning Proposal. Referrals will be required as a result of the existing site constraints and permissible land uses under the IN1 General Industrial of the Wingecarribee LEP 2010.

#### 6.2. Reserving Land for Public Purposes – Not relevant

#### 6.3. Site Specific Provision

This Direction applies to the Planning Proposal as it amends an Environmental Planning Instrument (WLEP 2010) however the development standards applicable to the subject land are being removed and no additional standards over the subject land will be imposed. The Planning Proposal is therefore considered consistent with this Direction.

#### 7. Metropolitan Planning – Not relevant

#### Section C – Environmental, social and economic impact

# 7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the Planning Proposal?

The subject properties are notated as containing areas of the Endangered Ecological Community (EEC) of Southern Highlands Shale Woodland. It is possible that this community will be impacted with industrial land uses proceeding on the subject lands. The impact has been considered as part of the assessment of the Northern Gateway Planning Proposal (WLEP 2010 Amendment 2) and may eventuate irrespective of the change in the minimum lot size proposed as part of the subject Planning Proposal. Any future development application will be considered against the Threatened Species Conservation Act, 1995.

There is therefore no compulsion to prepare an 'Assessment of Significance' in response to the *Guide to preparing Local Environmental Plans* to determine the impact of the Planning Proposal on the identified EEC.

### 8. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No other environmental impacts are envisaged as a direct result of the Planning Proposal that have not been previously addressed in Section 5 of this report. The subject Planning Proposal will correct a mapping notation that will identify the subject lands as having no minimum lot size. The subject Planning Proposal is intended to make the subject land consistent with Council's no minimum lot size development policy for land zoned IN1 General Industrial under Wingecarribee LEP 2010.

### 9. Has the Planning Proposal adequately addressed any social and economic effects?

Adverse social and economic impacts of amending the minimum lot size will be negligible. On balance, the impacts of amending the minimum lot size notation will be beneficial, by allowing any proposed development to integrate subdivisions into future development applications.

As the Planning Proposal will provide additional flexibility to the existing IN1 General Industrial zoned land social and economic impacts will, on balance be beneficial.

There are no heritage issues in relation to the properties the subject of the Planning Proposal.

#### Section D – State and Commonwealth interests

#### 10. Is there adequate public infrastructure for the Planning Proposal?

The subject lands, and specifically the proposed amendment, will allow a greater range of land uses that are consistent with the objectives of the IN1 General Industrial land use zone under Wingecarribee LEP 2010. The locality is serviced by Water and Sewer and Council has a Section 94 Plan in place to fund upgrading of Roads Infrastructure.

### 11. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

The subject Planning Proposal has been forwarded to the Sydney Catchment Authority for comment. These comments are addressed in Section 5 and included with this submission to the Department of Planning & Infrastructure.

Further public authority consultation with government agencies will occur prior to the public exhibition period as required by the Gateway Determination.

#### PART 4 – MAPPING

The draft maps suitable for public exhibition are attached. These are based on the current relevant LEP maps and have been appropriately annotated to enable the subject land to be easily identified during consultations.

#### PART 5 – COMMUNITY CONSULTATION

It is recommended that the Planning Proposal be publicly exhibited for a period of 28 days. Council intends to individually notify adjoining and subject land owners. It is also intended to place the Planning Proposal on public exhibition by advertising in the local newspaper and making all documentation available on Council's website and public libraries.

Subject to the provisions of any Gateway Determination, Council also intends to consult with the following Government agencies prior to Community Consultation:

- Sydney Catchment Authority
- NSW Rural Fire Service
- Roads and Maritime Services (RMS)

#### PART 6 – PROJECT TIMELINE

- Approximate Gateway Determination 23 Sept 2013
- Revised/updated PP (if required)
- Public Exhibition/Consultation with government agencies 27 November 2013

[If using delegation: Consultation with Parliamentary Counsel] 8 January 2014

February 2014

March 2014

April 2014

- Report to Council on exhibition/final PP
- S59 submission to DP&I [or if using delegation: to delegate]
- Approximate completion date

#### DELEGATIONS

Council is applying to use its delegation to complete this proposal. An Evaluation Form has been attached as Attachment 4 for consideration.

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