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Industry &
Environment

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Gateway determination report – PP-2021-6614

Clydesdale Estate, Richmond Road, Marsden Park

December 21



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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A – Planning Proposal
Attachment B – Council report and resolution 20 October 2021

Attachment C – Letter requesting Gateway Determination

Attachment D – Blacktown Local Planning Panel Advice

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Blacktown
PPA	Blacktown City Council
NAME	Clydesdale Estate
NUMBER	PP_2021_6614
LEP TO BE AMENDED	State Environmental Planning Policy (Sydney Region Growth Centres) 2006
ADDRESS	Richmond Road, Marsden Park
DESCRIPTION	Multiple Lots and DPs
RECEIVED	4/11/2021
FILE NO.	IRF21/ 4537
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal (**Attachment A**) contains objectives and intended outcomes that adequately explain the intent of the proposal. In summary, the objectives of the planning proposal are to:

- Realign zone boundaries as a result of lot registrations and approved subdivision plans;
- Rezone SP2 zoned land that is no longer required for infrastructure purposes; and
- Revise the 'Clydesdale Estate' heritage affectation to only part of the site.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the State Environmental Planning Policy (Sydney Region Growth Centres)(Growth Centres SEPP) 2006 – Marsden Park through the following:

- Amending the following SEPP maps:
 - Land Zoning maps: LZN_002, 005
 - Minimum Lot Size maps: LSZ_002, 005
 - Height of Building maps: HOB_002, 005

- Land Reservation Acquisition: LRA_002, 005
- Residential Density: RDN_002, 005
- Heritage maps: HER_001, 002,005
- Amending the heritage item's description and property description within Schedule 5: Environmental Heritage.

Table 3 Existing and proposed amendments to Schedule 5 Environmental Heritage

Existing	Proposed
Clydesdale House – farmers cottages and barn	Clydesdale Homestead including grand house, barn, workers cottages, private cemetery, remnants of the rotating dairy, and the colonial landscape
Lot 2 DP 260476	Lot 4, DP 1248522**

** This property description does not exist, Schedule 5 is to be amended to reflect the correct property description. This has been conditioned accordingly.

Department comment

The planning proposal contains an explanation of provisions that adequately explain how the objectives of the proposal will be achieved. However, the amendments to Schedule 5 Environmental Heritage will need to be reviewed prior to exhibition as outlined below.

The Planning Proposal is supported by advice from a Tanner Kibble Denton Architects' heritage specialist regarding the proposed heritage amendments. In respect of the proposed item description, the advice states *'the item name for the listing should also be amended to better capture the significant site elements of the Clydesdale Estate'*.

Heritage NSW has provided preliminary comments regarding the proposed amendments to Schedule 5 of the SEPP, recommending the item description reflect the description in the State Heritage Register, that is, *Clydesdale – House, Barn, Cottage and Farm Landscape*. Heritage NSW noted that while the heritage assessment supporting the State Heritage register listing clearly defines the items of significance, if the SEPP map replicates the boundary identified in the State Heritage Register, it is appropriate to use the State Heritage Register item name within the SEPP. The extent of the heritage layer within the SEPP map is discussed in Section 1.5 of this report which will have implications for the property descriptions listed for this item in Schedule 5.

At this stage, Council's proposed item description amendment is not supported, for reasons outlined above and to avoid confusion between the description in the SEPP and the State Heritage Register. The item description is to be amended to reflect the description within the State Heritage Register, unless otherwise agreed to by Heritage NSW. Formal consultation with Heritage NSW will be required prior to exhibition.

1.4 Site description and surrounding area

1.4.1 Site description

Clydesdale Estate is located within the Marsden Park precinct, rezoned by the former Department of Planning and Infrastructure in 2013. It is bordered by South Creek Wianamatta to the north and west, Richmond Road and future residential uses to the east and future residential uses to the south. Figure 1 is an excerpt of the Marsden Park indicative layout plan showing the location of Clydesdale estate.

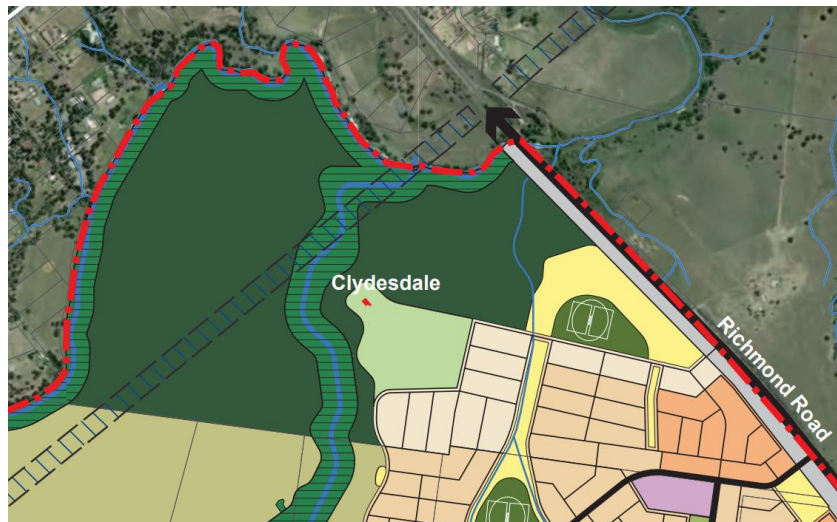


Figure 1 Marsden Park Indicative Layout Plan (source: DPIE)

Clydesdale Estate is listed as a heritage item of State Significance in the Growth Centres SEPP. It is described as Clydesdale House – farmers cottages and barn. Up until 2020, Clydesdale Estate was contained within one lot (former Lot 2 DP 260476 – outlined in red in Figure 2) together with land zoned for residential purposes. The land shown in Figure 2 also reflects the current extent of the heritage mapping for Clydesdale Estate in the Growth Centres SEPP.

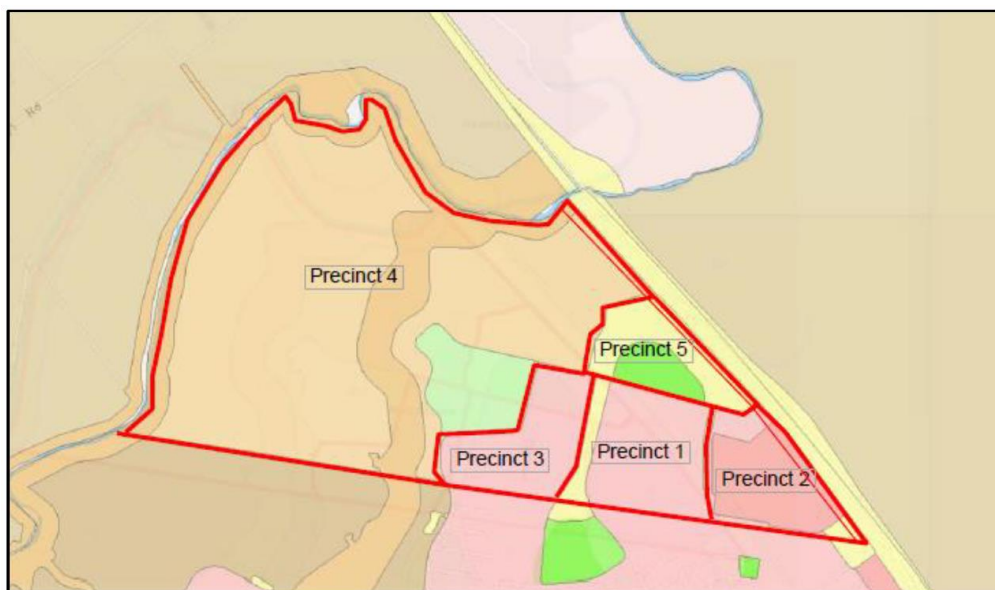


Figure 2 Clydesdale Estate (source: Council's Planning Proposal)

In 2020, a procedural subdivision creating precincts 1 – 5 (shown above) was registered as super lots. The residential precincts (precincts 1-3) are being progressively developed, as shown in Figure 3. Application details are contained within Section 1.6 Background of this report.



Figure 3 Clydesdale Estate – Residential precincts aerial image (source: NearMap, October 2021)

The SEPP mapping amendments relating to land use zone and corresponding lot size, building height, land reservation acquisition, and residential density maps mostly apply to precincts 1 and 2. Mapping amendments proposed by Council relating to the heritage item apply to precincts 1 - 3 and land on the edge of Precincts 2, 4 and 5. The Department's lot descriptions of land subject to the SEPP mapping amendments are shown in Table 4 below.

Table 4 Department's lot descriptions of land subject to SEPP mapping amendments

Precinct	Lot Description
1	Lots 1001-1135, 1139 DP1254249 Lots 1201-1360 DP1254250
2	Lot 1137 DP1254249, Lot 3 DP 1270086 (road widening lot)
3	Lot 3 DP 1248522
4	Lot 7 DP 1270086, Lot 1 DP 1270086 (road widening lot)
5	Lot 6 DP 1270086, Lot 2 DP 1270086 (road widening lot)

The planning proposal contains a similar table (*Table 1 – Affected lots of this planning proposal*) identifying the current land description subject to the SEPP mapping amendments. However, some of the lot and deposited plan references are incorrect and will need to be reviewed and updated prior to community consultation. The Gateway has been conditioned accordingly.

The locations of the proposed amendments are discussed in Section 1.5 Mapping below.

1.4.2 Surrounding Area

Marsden Park precinct (south of the site) is in the process of transitioning from rural to residential uses. Land to the north east is currently zoned RU4 Primary Production Small Lots under the Blacktown LEP 2015 and is within the Marsden Park North Precinct. Land to the north is within the Hawkesbury LGA and is mostly rural with residential land uses to the east of Richmond Road.

1.5 Mapping

The proposed amendments to the SEPP maps relating to land use zone and corresponding lot size, building height, land reservation acquisition, and residential density maps apply to precincts 1 and 2.

1.5.1 Precinct 1 amendments – reflecting approved development applications

Figure 4 explains the amendments to Precinct 1, supported by Table 5. The approved subdivision applications that are outlined in Section 1.6 Background of this report.

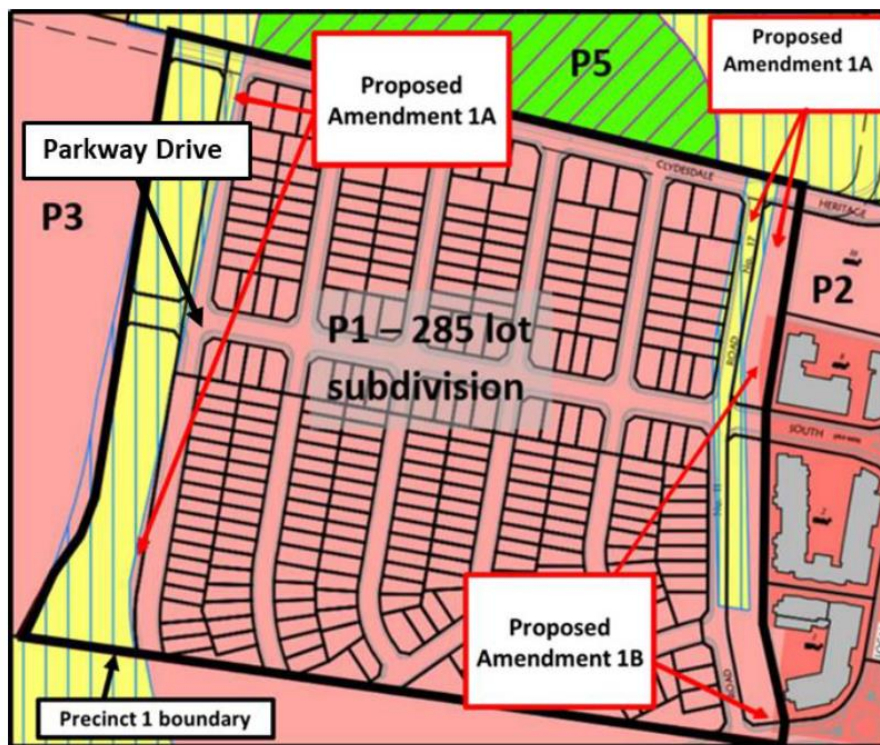


Figure 4 Precinct 1 - Proposed realignment of zone boundary (source: Council's planning proposal)

Table 5 Proposed amendments to Precinct 1

Proposed Amendment	Description
1A – Realignment of SP2 Local drainage and R2 residential zone boundary	Realignment of SP2 Local Drainage zoning at both western and eastern boundary of Precinct 1 along Parkway Drive and Bakehouse Avenue to reflect registered subdivision applications.
Amendment applies to Map Sheets 002 and 005.	SP2 Local Drainage zone is to move 18m east to align with the drainage channel.

Proposed Amendment	Description
1B – Realignment of R2 Low Density and R3 Medium Density zone boundary	Realignment of R2 Low Density Residential and R3 Medium Density Residential zone boundary at western side of Precinct 2 along Bakehouse Avenue to reflect the realignment of SP2 Local Drainage zoning at eastern side of the Precinct 1.
Amendment applies to Map Sheet 005.	The zoning boundary of R2 Low Density Residential and R3 Medium Density Residential zone at Precinct 2 is to move east and appropriately out of the drainage corridor land in Precinct 1.

Department comment

The above amendments are considered clear with adequate justification and supported by appropriate mapping.

1.5.2 Precinct 2 amendments – rezoning of surplus SP2 Infrastructure land and reflecting subdivision approvals

Figure 5 explains the amendments to Precinct 2 supported by Table 6.

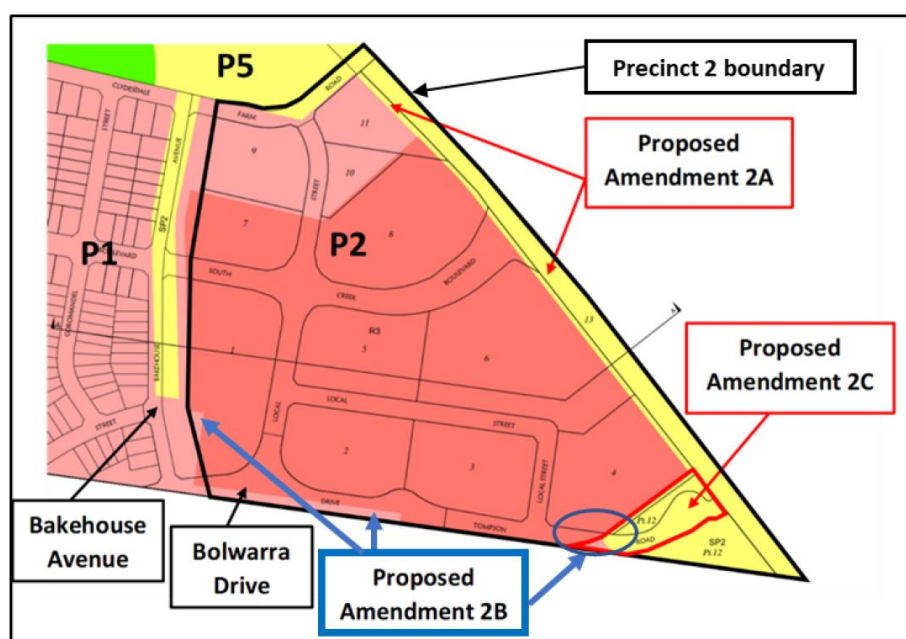


Figure 5 Precinct 2 - Proposed rezoning (source: Council's planning proposal)

Table 6 Proposed amendments to Precinct 2

Proposed Amendment	Description & Justification
2A – Rezoning from SP2 to part R2 Low Density and R3 Medium Density Residential	Rezoning of a small slither of land from SP2 Classified Road along Richmond Road on eastern boundary of Precinct. TfNSW has confirmed BHL Group has demonstrated the ultimate design for Richmond Road upgrade can be accommodated within the proposed road reserve. TfNSW has no objection to the rezoning.
Amendment applies to Map Sheets 001, 002 and 005.	

Proposed Amendment	Description & Justification
2B – Rezoning from R2 Low Density to R3 Medium Density to reflect approved subdivision plans Amendment applies to Map Sheet 005.	Rezoning part of the western and southern boundary of Precinct 2 along Bakehouse Avenue and Bolwarra Drive to reflect approved subdivision plans.
2C – Rezoning of SP2 Local Drainage to R3 Medium Density Residential Zone Amendment applies to Map Sheet 005.	Rezoning part of the site located at the south eastern corner of Precinct 2 adjoining Richmond Road. This land is no longer required for drainage purposes.

Department comment

The Planning Proposal states Amendment 2A refers to rezoning SP2 Classified Road along Richmond Road on eastern boundary of Precinct 1 to R2 Low Density Residential and R3 Medium Density Residential to reflect the approved road widening. However, it appears that the amendment does not apply to Precinct 1. The Planning Proposal is to be updated prior to exhibition to clarify and the Gateway has been conditioned accordingly.

The description of the proposed amendment in the planning proposal appears to be confined only to land on the eastern boundary of Precinct 2. Figure 5 of the planning proposal (replicated in Figure 5 in this report) does not clearly distinguish if the rezoning amendment is to occur to the SP2 land within the road widening lot or a small slither of land adjoining the road widening lot. The map should be amended to identify which land in red is to be rezoned, similar to how the proposal identifies proposed Amendment 2C.

Attachment 1 to the planning proposal states that the corridor excised from Precinct 2 was narrower than the SP2 Infrastructure zoning had allowed for. This has resulted in a narrow sliver of land in the precinct zoned SP2 Infrastructure but surplus to road widening needs. This commentary should be added to the planning proposal's 'objectives or intended outcomes' section.

The planning proposal's description of only applying to land on the eastern boundary of Precinct 2 is inconsistent with the justification refers to three narrow parcels of land along the eastern boundary of Precincts 2, 4 and 5 that were excised for the purposes of road widening. In addition, the SEPP Map sheets to be amended includes 001, 002 and 005 which indicates amendments to land in Precincts 2, 4 and 5.

The advice provided by Transport for NSW to support this amendment refers to documentation demonstrating the ultimate design for Richmond Road upgrade could be accommodated with the proposed road reserve. Following the clarification of the area to which the rezoning applies, it is recommended that Transport for NSW is consulted again to confirm their support.

In respect of Amendment 2C, the planning proposal states the rezoning of 4,107m² of SP2 Local Drainage land to R3 Medium Density Residential, as shown in Figure 5 and described in Table 6 in this report, is required as a result of a change in circumstances where Council no longer needs the parcel of land for drainage purposes. This amendment would see a reduction in the SP2 Infrastructure land in this location.

The justification for this amendment is that the required infrastructure to support residential uses have already been planned and is currently being installed. Further justification is required to demonstrate that the proposed reduction in land used for drainage purposes will not result in flood or stormwater impacts on the residential areas or adjoining sites.

The Gateway has been conditioned accordingly.

1.5.3 Heritage mapping amendments – all precincts

Mapping amendments relating to the heritage item apply to precincts 1 - 3 and land bordering Precincts 2, 4 and 5 as shown in Figure 6 and Table 7 below.

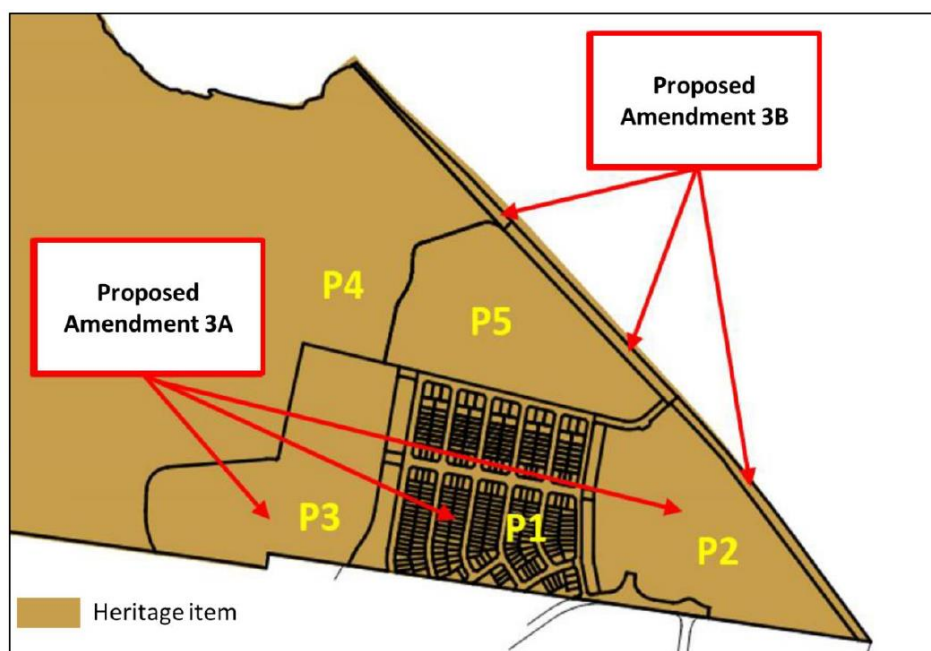


Figure 6 Proposed mapping amendments to the Heritage Item (source: Council's planning proposal)

Table 7 Proposed heritage mapping amendments

Proposed Amendment	Description
3A – Realignment of heritage map boundary	<p>Realigning the heritage boundary with Clydesdale Farm Drive and the former driveway as part of the site that is located at Precinct 1 and 3 and majority of Precinct 2.</p> <p>This amendment will remove heritage affectation from these lots to reflect various subdivision applications and to allow the approved residential development to occur in Precincts 1, 2 and 3. These lots are to be excluded from heritage maps.</p>
3B – Realignment of zone boundary	<p>Moving the heritage boundary from small lots along Richmond Road and through Precincts 2, 4 and 5 to the west.</p> <p>This amendment will remove heritage affectation from these lots to reflect approved applications for the widening of Richmond Road and Transport for NSW plans for widening of Richmond Road. These lots are to be excluded from heritage maps.</p>

Department comment

Heritage NSW has provided preliminary comments on the proposal and has stated the boundary for heritage curtilage for the State heritage item within the SEPP should not be reduced further than the curtilage shown in the State Heritage Register (Figure 7 below).

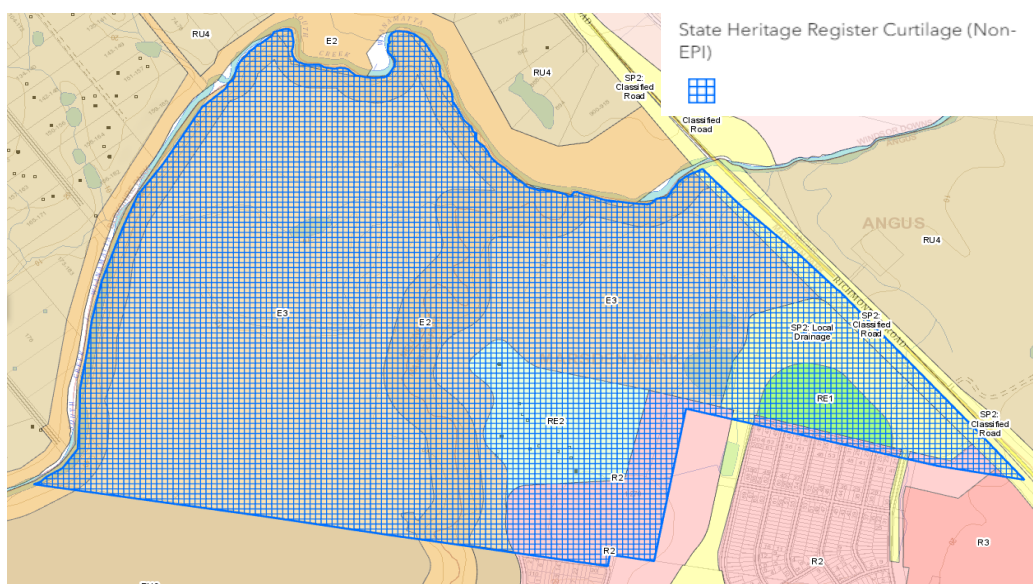


Figure 7 ePlanning Spatial Viewer – State Heritage Register Curtilage

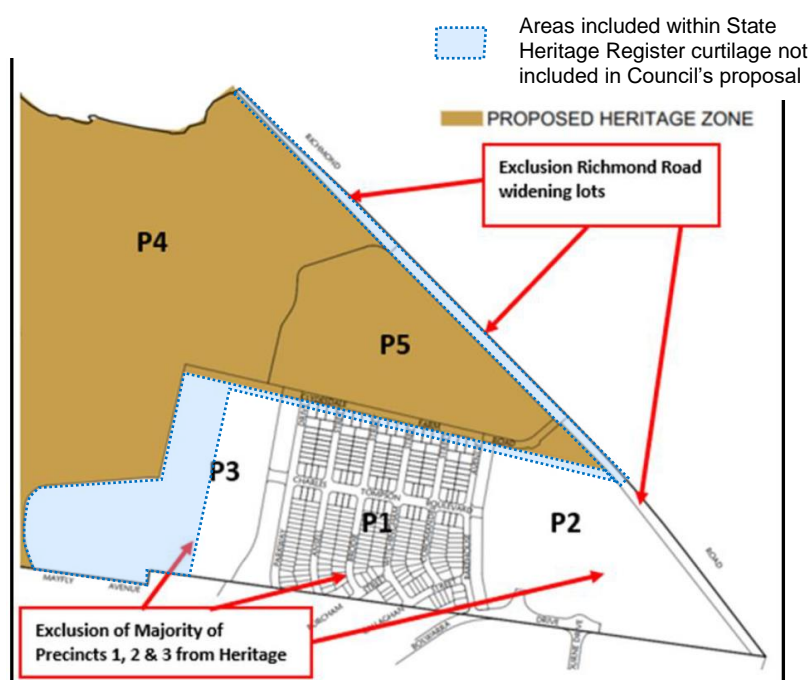


Figure 8 Proposed amendments to SEPP Heritage Map

The land included within the State Heritage Register and not included within the proposed SEPP heritage map is shown approximately in blue in Figure 8. Land includes part of Precinct 3, the front yard of 15 residential lots, some land in Precinct 2 and some of the SP2 road widening land. The planning proposal, supported by heritage advice, provides the following justification for the revised heritage mapping:

- Residential development in Precincts 1-3 is being constructed on land identified in the Conservation Management Plan (CMP) as being of little heritage significance – it makes very little contribution to the rural landscape setting of the Clydesdale Estate. The site specific DCP controls for this area are sufficient to ensure that new residential development within these precincts will not result in any additional adverse impacts on the rural landscape setting of Clydesdale Estate;

- The land dedicated for the widening of Richmond Road forms part of CMP Precinct 3: Northern Paddocks. The CMP notes that the far-eastern portion part of the precinct, adjacent to Richmond Road 'has almost no visual relationship with Precinct 1' and so makes very little contribution to the heritage values of the place;
- The Clydesdale CMP (GBA Heritage 2017) was endorsed by Heritage NSW (December 2017);
- As a result of the proposed heritage boundary amendment, the landowners in Precincts 1, 2 and 3 will no longer have to seek heritage approval from Council. The amendments will allow future dwelling construction to proceed without the statutory requirement to consider heritage matters which are not warranted in this part of the site;
- Site specific exemptions are awaiting approval as an interim measure.

The Department does not support Council's proposed mapping amendments for the following reasons:

- In order to develop within a curtilage, applicants must either obtain the relevant exemptions and/or permits from Heritage NSW. Heritage NSW has advised that the site-specific exemptions are not an interim measure, and would have the effect of allowing for certain works within the curtilage area without the requirement for consent under the Heritage Act. The site-specific exemptions require gazettal and the sign-off from the relevant Minister. The exemptions have not been approved by the Minister at the time of writing this Gateway assessment;
- Heritage NSW has advised that the SEPP heritage item should be consistent with the curtilage on the State Heritage Register;
- The following provisions under the Growth Centres SEPP are noted:
 - CI 5.10(4) Heritage Conservation, development within land mapped as the Clydesdale heritage item requires a consent authority to consider the effect of the proposed development on the heritage significance of the item or area concerned. The consent authority may require a heritage assessment or conservation management plan to be submitted as part of the application (CI 5.10(5),(6)).
 - CI 5.10 (3) When consent is not required, development consent under this clause is not required if the applicant has notified the consent authority of the proposed development and the consent authority has advised in writing before any work is carried out that it is satisfied of the proposed development being minor in nature and would not adversely affect the heritage significance of the heritage item
- The proposed amendment to the curtilage is not required to allow for some exempt and complying development on the impacted areas, once the exemptions are gazetted, under the following provisions of the SEPP (Exempt and Complying Development Codes) 2008:
 - CI 1.17A Requirements for complying development for all environmental planning instruments (EPI). To be complying development for the purposes of any EPI, the development must not be carried out on land that comprises an item that is listed on the State Heritage Register under the Heritage Act 1977 or on which such an item is located or identified as an item of environmental heritage or heritage item by an EPI.
 - Despite the above, if development meets the requirements and standards specified by this Policy and that development has been granted an exemption under section 57(2) of the Heritage Act 1977 or is subject to an exemption under section 57(1A) or (3) of that Act, the development is complying development under this Policy (CI 1.17A(2)).
 - However, it is up to the consent authority as to what it considers as 'minor in nature' and 'would not adversely affect the heritage significance of the heritage item' under the SEPP. Applicants for future dwelling houses within affected areas should consult with Council and seek their own advice.

On this basis, the amendments to the SEPP Heritage layer should be consistent with the State Heritage Register curtilage boundary. The planning proposal mapping will need to be amended to reflect this prior to community consultation.

1.6 Background

Attachment 1 of the planning proposal has provided a summary of the relevant development applications resulting in the need for this planning proposal. They are as follows:

- Procedural subdivision into 5 superlots/precincts (DA16/04366). At the time of rezoning, zoning maps were issued without fixed coordinates. Following the registration of the procedural subdivision, more recent zoning maps were published with adopted GIS coordinates resulting in several instances of zones encroaching over boundaries which were unintended.
- Precinct 1 – 285 residential lots (JRPP16/03316). Subdivision designed aligned with procedural subdivision. A review of NearMap appears this subdivision has been registered.
- Richmond Road - road widening lots (DA20/00797). Excision of three narrow corridors of land along the eastern most portions of Precincts 2, 4 and 5. It is intended for these corridors to be transferred to Transport for NSW for road widening purposes.
- Precinct 2 - Concept DA for 22 x 4 storey residential flat buildings containing 1,421 units (SPP 16/04469). Consent was granted on 23 December 2020 however the proponent no longer intends to proceed with the approved scheme.
- Precinct 3 – 154 residential lots (DA 18-01249 and associated modification). Consent granted on 27 June 2019.

2 Need for the planning proposal

The planning proposal is not a direct result of an assured local strategic planning statement or Department approved strategy/report.

The proposed amendments have arisen from site-specific circumstances, including detailed planning undertaken at the development application stage resulting in minor land use zoning realignments, and the realisation of surplus infrastructure land.

The planning proposal is the best means of achieving the intended outcomes.

3 Strategic assessment

3.1 District Plan

The site is within the Central City District and the Greater Sydney Commission released the Central City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

The planning proposal is consistent with the relevant priorities in the plan as outlined below.

The Department is satisfied the planning proposal gives effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 8 District Plan assessment

District Plan Priorities	Justification
Providing housing supply, choice and affordability, with access to jobs, services and public transport (N5)	<p>The planning proposal states the proposed amendments are to reflect the approved subdivision plans that facilitate the supply of more housing in the Blacktown LGA that is consistent with the vision for development outcomes for the area.</p> <p><u>Department comment</u></p> <p>The proposed amendments rezoning surplus SP2 infrastructure lands (excess road widening and drainage land) will result in additional residential zoned land both R2 Low Density and R3 Medium Density residential in Precinct 2. This is discussed further under Section 4.3 of this report.</p>
Creating and renewing great places and local centres, and respecting the District's heritage (N6)	<p>The planning proposal states the proposed heritage mapping amendments are in accordance with the Clydesdale Estate Heritage Management Plan (as outlined under Section 1.5.3 of this report). The significance of the heritage item on the site has been considered and the proposed changes to heritage curtilage has no impact of the heritage item.</p> <p><u>Department comment</u></p> <p>The Department's position in respect of the proposed heritage SEPP mapping amendments are included within Section 1.5.3 of this report. Regardless of the changes required by the Gateway conditions, the proposal remains consistent with this planning priority.</p>

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 9 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	<p>Planning Priority 4: Respecting heritage and fostering healthy, creative, culturally rich and socially connected communities.</p> <p>The planning proposal is in accordance with the findings and recommendations of the endorsed Conservation Management Plan for Clydesdale Estate.</p> <p>Planning Priority 6: Creating and renewing great places and centres.</p> <p>The planning proposal seeks to rezoning surplus SP2 infrastructure land which will enhance the amenity of the area by removing the likelihood of the land being left vacant and untended.</p>
Blacktown Community Strategic Plan	The planning proposal is consistent with all relevant strategic directions.

3.3 Local planning panel (LPP) recommendation

The Blacktown Local Planning Panel considered the planning proposal on 22 September 2021. The Panel provided the following advice (**Attachment D**) for the planning proposal:

- The Proposal has strategic and site specific merit in regard to the natural environment, existing uses and likely future uses on and surrounding the site, and existing and required services and infrastructure.
- The proposal is responding to changing circumstances through the resolution of more fine grain planning outcomes through the recent development and subdivision process.
- The Panel notes inconsistencies between the draft SEPP map and State Heritage register map and expects that those inconsistencies would be resolved as part of the Gateway Determination process.
- A statement from Council's Heritage expert is to be included in the planning proposal that addresses their support or otherwise for the planning proposal.

3.4 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Reasons for Consistency or Inconsistency
2.1 Environment Protection Zones	<p>The planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. The site does not contain an environmentally sensitive area and there are no site features that warrant consideration of the application of an environment protection zone.</p> <p>The proposal is consistent with this Direction.</p>
2.3 Heritage Conservation	<p>The objective of this Direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The planning proposal is seeking to reduce the application of the heritage mapping in the SEPP compared to the heritage curtilage in the State Heritage Register. It is noted the proposal cannot amend the Clydesdale Estate heritage curtilage boundary within the State Heritage Register. However, the proposal does not meet the requirements of this Direction being a planning proposal must contain provisions that facilitate the conservation of heritage items and Aboriginal objects. The planning proposal will remain inconsistent with this Direction until the planning proposal is amended to ensure the boundaries are consistent and further consultation with Heritage NSW is undertaken.</p> <p>In respect of Aboriginal heritage, the land is subject to an Aboriginal Heritage Impact Permit issued by former NSW OEH, noting 3 recorded artefacts are located elsewhere in Clydesdale Estate and will not be affected by the proposal.</p>
2.6 Remediation of Contaminated Land	<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities. The proposal is consistent with this Direction as the area to be rezoned from SP2 Infrastructure – Drainage to residential has been remediated and validated and deemed suitable to accommodate future residential development.</p>

Directions	Reasons for Consistency or Inconsistency
3.1 Residential Zones	<p>The objective of this Direction are to encourage a variety of and choice of housing types to provide for housing needs, make efficient use of existing infrastructure and services and ensure new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environment and resource land.</p> <p>This Direction applies if a planning proposal affects land within an existing or proposed residential land use zone. The proposal is consistent with this Direction as it will encourage the provision of housing (through the rezoning of surplus SP2 Infrastructure land), and as discussed in Section 4.3 of this report, it can be appropriately serviced. The proposed realignment of residential land use zone boundaries is consistent with this Direction.</p>
3.4 Integrated Land Use and Transport	<p>The objective of this Direction is to ensure that urban structures, subdivision and street layouts achieve certain planning objectives relating to land use and transport.</p> <p>This Direction applies at the planning proposal seeks to create, alter or remove a zone relating to urban land.</p> <p>The Planning Proposal is consistent with the Direction as it is supported by:</p> <ul style="list-style-type: none"> • Approved land for housing with access to transport other than cars, including walking, cycling and public transport. • It supports the efficient and viable operation of existing public transport services.

Directions	Reasons for Consistency or Inconsistency
4.3 Flood Prone Land	<p>The objective of this Direction is to ensure development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. It will also ensure the provisions of a local environmental plan apply to flood prone land are commensurate with flood behaviour and include consideration of the potential flood impacts on and off the subject land.</p> <p>This direction applies when a planning proposal authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. The Floodplain Development Manual 2005 defines 'flood prone land' as land being impacted by the probable maximum flood (PMF).</p> <p>This Direction applies as land is within the PMF. A planning proposal must not rezone land within the flood planning area from Special Purpose to residential, which the proposal is seeking to rezone SP2 to residential purposes.</p> <p>A proposal may be inconsistent with this Direction if it can demonstrate that it can meet any of the tests set out in Clause 9 of Direction 4.3.</p> <p>The planning proposal states the proposal, both the realignment of land use zone boundaries and the rezoning of SP2 Infrastructure land is in accordance with the Floodplain Development Manual 2005 principles and is of minor significance. The proposal justifies the rezoning of the SP2 Infrastructure – Drainage land as being of minor significance through the following:</p> <ul style="list-style-type: none"> • The increase in residential zoned land at the site represents 0.9% from 44.96ha to 45.37ha being 4,107m²; • 1,860 dwellings have DA consent across the wider site within the same flood planning area; • The proposal will allow for the construction of an additional 5-10 dwellings and will therefore not have any significant impact on capacity to evacuate or further burden Emergency Services in an emergency flood event; • A new concept layout has been developed for the existing and proposed R3 land within Precinct 2 (including the subject SP2 land) replacing the existing approval of 1,421 dwellings with approximately 307 dwellings, which will significantly reduce the dwelling yield and density of the wider area; and • Bulk earthworks have already been undertaken to raise ground levels to address flood hazard. <p>In respect of the zone realignments, the proposal justifies these amendments as being of minor significance through the following:</p> <ul style="list-style-type: none"> • The proposal is for housekeeping amendments only to allow zone boundaries to align with already approved development. It will not result in any additional development; and • TUFLOW modelling has been undertaken (J. Wyndham Prince, Ref: 110350-5-MS dated 5/8/2021) which demonstrates no negative impacts will result on any residential zoned land <p>The planning proposal should be amended to clarify if Clause 7 of the Direction applies.</p> <p>The inconsistency with this Direction is considered minor and justified.</p>

Directions	Reasons for Consistency or Inconsistency
6.2 Reserving Land for Public Purposes	<p>The relevant objective of this Direction to the proposal is to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition. This Direction applies as the planning proposal is seeking to reduce existing zonings or reservations of land for public purposes.</p> <p>The proposal seeks to rezone surplus SP2 Infrastructure – Drainage and SP2 Infrastructure – Classified Road. As discussed under Section 1.5.2, additional justification is required as to why SP2 Infrastructure – Drainage is surplus.</p> <p>The remaining amendments in this Planning Proposal are administrative in nature and do not seek to create, alter or reduce reservations of land for public purposes but to align them with the correct lot boundaries.</p> <p>The planning proposal is consistent with this Direction.</p>

3.5 State environmental planning policies (SEPPs)

The planning proposal's amendments to realign land use zones and associated development standards as a result of lot registrations and subdivision approvals does not raise any inconsistencies with SEPPs. Similarly, the amendments to the SEPP Heritage map don't raise any inconsistencies with SEPPs.

In respect of the rezoning of SP2 Infrastructure – drainage land, it will not preclude future development being consistent with all relevant SEPPs. In respect of SEPP No 55 – Remediation of the SP2 Infrastructure drainage area to be rezoned has been remediated and validated and deemed suitable to accommodate future residential development.

4 Site-specific assessment

4.1 Environmental

The planning proposal is not proposing amendments that will have adverse impacts on ecological communities, threatened species or critical habitat. The amendments relating to land use zone boundaries apply to land that does not contain vegetation or has been cleared as a result of previous development approvals.

As described under Section 1.5.2 of the report, additional information is needed to support the reduced SP2 Infrastructure – drainage land. The additional dwellings created by this amendment is discussed under Section 4.3 of this Report.

4.2 Social and economic

The proposed land use zoning boundary amendments will have a positive social and economic effect providing certainty to landowners and developers that the land use controls (via the SEPP mapping) will be updated to reflect the detailed work carried out at subdivision assessment stage.

The proposed rezoning of surplus SP2 Infrastructure – drainage land will have a positive social and economic impact as the land will be able to be more efficiently utilised as part of a residential community. In addition, this land will not have to be acquired by a public authority.

4.3 Infrastructure

4.3.1 Flooding evacuation

The proposed amendment to rezone surplus SP2 Infrastructure land will result in additional residential zoned land within Precinct 2.

As mentioned in Section 1.6 of this report, the proponent is not pursuing the 1,421 dwelling approval for Precinct 2 but instead is in the process of preparing a new development application for medium density development with an estimated yield of 307 dwellings. The planning proposal estimates the additional residential land from the SP2 Infrastructure – drainage land will yield between 5-10 additional dwellings, representing a marginal increase in dwellings and below the approved 1,421 dwellings. It is assumed that at development application stage, the consent authority would have been satisfied the Precinct 2 proposal can be serviced by road and essential infrastructure and therefore the additional dwellings created by the rezoning of the SP2 Infrastructure land can be serviced as well.

However, in respect of evacuation and this proposal, only the resultant development potential of the land to be rezoned from SP2 Infrastructure to residential is required to be assessed. Whether this increase will have an impact on evacuation capacity is not clear. NSW State Emergency Services (SES) is to be consulted prior to exhibition on this proposal.

To support the referral to the SES, the planning proposal is to be amended to identify how many dwellings may be realised in the land to be rezoned from SP2 Infrastructure to residential.

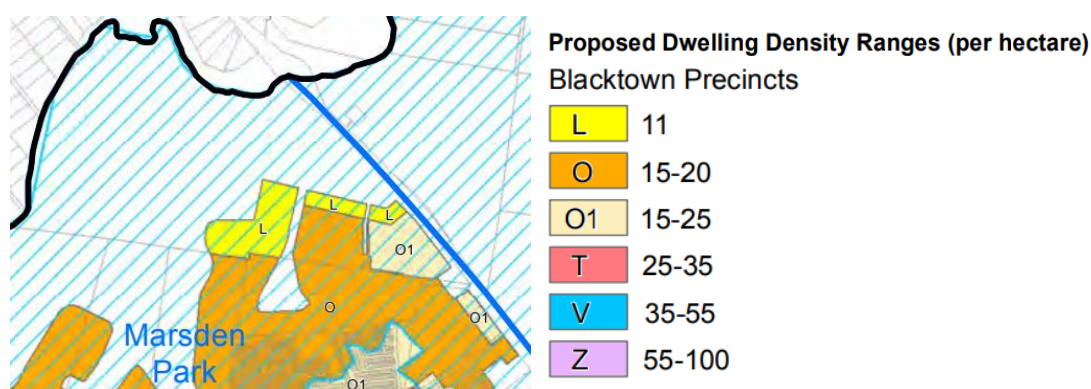


Figure 9 Excerpt of draft proposed dwelling density SEPP map

4.4 Community

The exhibition period of 28 days is considered appropriate, and forms the conditions of the Gateway determination.

4.5 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 28 days to comment:

- Heritage NSW
- Transport for NSW
- NSW SES
- Sydney Water

- Endeavour Energy

5 Timeframe

Council proposes to complete the LEP within 5 months of the Gateway Determination being issued with public exhibition commencing in January 2022, reporting to council in April 2022.

However, given the agency consultation required through the Gateway determination prior to the exhibition commencing, the Department recommends extending the anticipated timeframe for exhibition until March 2022, reporting to Council by June 2020. This time frame will ensure the LEP will be completed within 9 months. It is recommended that if the gateway is supported it also includes conditions requiring council to exhibit and report on the proposal by specified milestone dates as outlined above.

A condition to the above effect is recommended in the Gateway determination.

6 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority. However, as the planning proposal is of a local nature, the Department recommends that Council be authorised to be the local-plan making authority for this proposal. As the planning proposal includes amendments to the SEPP maps, Council will be required to request the maps are prepared by the Department's E-Planning team.

7 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It includes housekeeping type amendments that realign zone boundaries as a result of lot registrations and approved subdivision plans;
- It includes amendments that rezone surplus SP2 infrastructure zoned land;
- It revises the 'Clydesdale Estate' heritage affectation to only part of the site; and
- It is consistent with the strategic planning framework with any inconsistencies are considered minor.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Additional consultation with Heritage NSW, Transport NSW and NSW SES on proposed amendments;
- Additional justification or clarification is required in relation to some of the amendments.

8 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Direction 4.3 Flood Prone Land are minor; and
- Note that the consistency with section 9.1 Direction 2.3 Heritage Conservation is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to:

- Revise the amendments to Schedule 5 Environmental Heritage of the SEPP(Sydney Region Growth Centres) to reflect the description in the State Heritage register, revise the SEPP heritage layer to be consistent with the State Heritage curtilage map and update the planning proposal to include the outcomes of further consultation with Heritage NSW regarding these amendments;
 - The draft DCP and planning proposal should be exhibited concurrently, where practical;
 - Update Table 1 – Affected lots of this planning proposal to reflect the most up to date lot and deposited plan descriptions;
 - Update commentary regarding ‘Amendment 2A’ to clarify the Precincts to which the amendments apply;
 - Update Figure 5 of the planning proposal to clearly distinguish which SP2 Infrastructure – Classified Road land is the subject of the rezoning. It should be portrayed similarly to how the planning proposal identifies proposed ‘Amendment 2C’;
 - Reflect outcomes of consultation with Transport for NSW regarding any additional amendments required as a result of surplus SP2 Infrastructure – Classified Road land. The planning proposal has not made it clear as to why only land in Precinct 2 is to be rezoned where it appears the same situation has occurred on the eastern boundary of Precinct 4;
 - Provide further justification as to why Council no longer needs SP2 Infrastructure – Drainage land;
 - Provide an assessment of the dwelling potential of the SP2 Infrastructure – Drainage land to be rezoned against the draft maximum density bands. The analysis should include a dwellings per hectare figure and the additional dwellings the proposal would generate.
 - Reflect outcomes of consultation with NSW SES.
2. Prior to community consultation, consultation is required with the following public authorities:
 - Heritage NSW
 - Transport for NSW
 - NSW SES
 3. Prior to community consultation, the planning proposal is to be revised to address conditions 1 and 2 and forwarded to the Department for review and approval.
 4. Consultation is required with the following public authorities:
 - Sydney Water
 - Endeavour Energy
 5. The planning proposal should be made available for community consultation for a minimum of 28 days
 6. The planning proposal must be exhibited within 3 months (March 2022) from the date of the Gateway determination.
 7. The planning proposal must be reported to council for a final recommendation 6 months (June 2022) from the date of the Gateway determination.
 8. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
 9. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



7.12.2021

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