



IRF23/2589

Gateway Determination Report – PP-2022-2027

48-54 Paradise Beach Road, SANCTUARY POINT

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal.

| Relevant reports and plans |
|---------------------------------------|
| Planning Proposal Version 2 |
| Concept Architectural Plans Version 2 |
| Urban Design Review |

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

| | |
|---------------------------------|---|
| LGA | Shoalhaven |
| PPA | Southern Planning Panel |
| NAME | Rezone and amend Schedule 1 to enable development of site for multi dwelling housing |
| NUMBER | PP-2022-2027 |
| LEP TO BE AMENDED | Shoalhaven Local Environment Plan 2014 |
| ADDRESS | 48-54 Paradise Beach Road, SANCTUARY POINT |
| DESCRIPTION | Lot 80 DP 817353 and Lot 921 DP 27856 |
| RECEIVED | 18 September 2023 |
| FILE NO. | IRF23/2589 |
| 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 contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to enable a Multi Dwelling Housing development reflecting the findings of a Rezoning Review by the Southern Planning Panel. The proposal is to permit Multi Dwelling Housing as a new land use for the site via an LEP Schedule 1 Additional Permitted Uses clause, to support an overall building height of 11m (including the part of site that doesn't already have this HOB limit), with a 3-storey built form and appropriate transitions to the adjoining development.

The site design was reworked to satisfy the resolution of the Southern Planning Panel to allow Multi Dwelling Housing as an additional land use in the low density zone, up to height of 11m above natural ground level and successfully incorporates the Panel's requirement to achieve a transition in building height with the adjoining residential land.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Shoalhaven LEP 2014 per the changes below:

Table 3 Current and proposed controls

| Control | Current | Proposed |
|--------------------------------------|---|--|
| Zone | R2: Low Density Residential SP2: Place of Public Worship | R2: Low Density Residential |
| Maximum height of the building | 8.5m 11m | 11m |
| Schedule 1 Additional Permitted Uses | n/a | <p>Schedule 1 Additional Permitted Uses:</p> <ul style="list-style-type: none"> Multi - dwelling housing as a permitted land use with consent, <p>Schedule 1 Additional Permitted Uses – Objectives:</p> <ul style="list-style-type: none"> To provide for the housing needs of the community within a multi dwelling housing environment, and To ensure a desirable transition in building height from the site to the adjoining low density residential properties (to the west/south west and east/south east). The building height shall transition to a lower height adjacent to the adjoining low density residential properties. |

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The subject land is identified as Lot 921 DP 27856, being 54 Paradise Beach Road and Lot 80 DP 817353, being 48-52 Paradise Beach Road, SANCTUARY POINT. The site is rectangular in shape, with direct frontage to Paradise Beach Road.

Lot 921 (54 Paradise Beach Road) currently contains a single storey dwelling approved and constructed in the early 1990's. The site is currently zoned as R2 – Low Density Residential.

Lot 80 (48-52 Paradise Beach Road) currently comprises of a single storey Anglican Church and associated carparking, now used by Noah's Inclusion Services, a registered NDIS provider. The site is currently zoned R2 – Low Density Residential and SP2 – Infrastructure.

The subject site is located to the north of Sanctuary Point Primary School, with the Sanctuary Point commercial centre beyond. The subject land immediately adjoining the sites is characterised as low-density residential comprising of one and two storey detached dwellings.



Figure 1 Subject site (source: Nearmap, accessed 28/09/2023)



Figure 2 Site context (source: Nearmap, accessed 28/09/2023)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning, Height of Buildings and Schedule 1 maps, which are suitable for community consultation.



Figure 3 Current zoning map (source: NSW Planning Portal Spatial Viewer, accessed 28/09/2023)

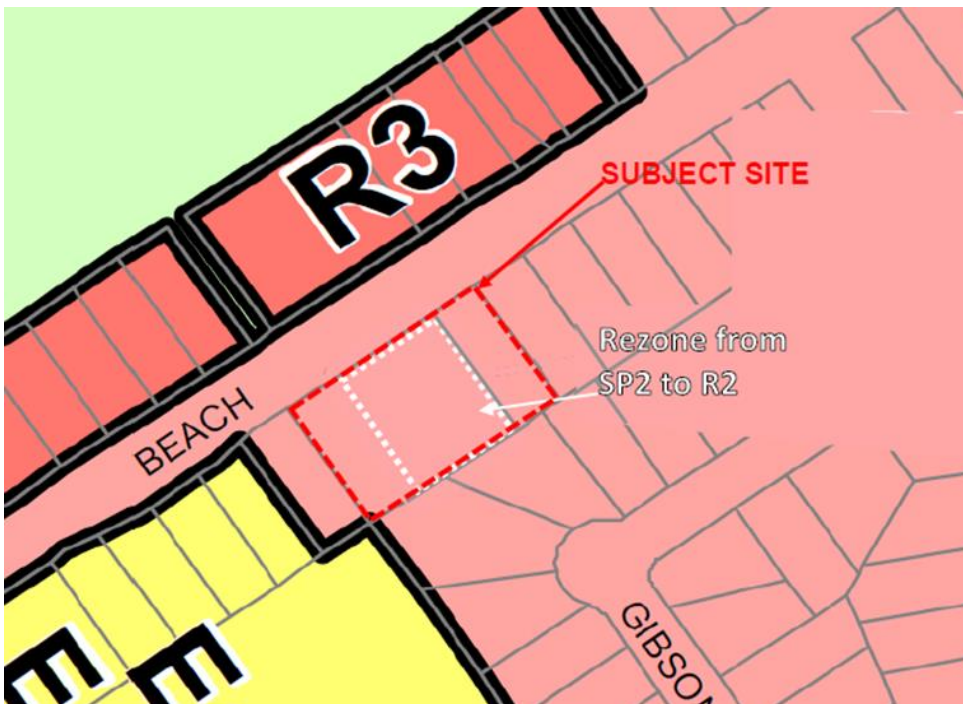


Figure 4 Proposed zoning map (source: Planning Proposal)

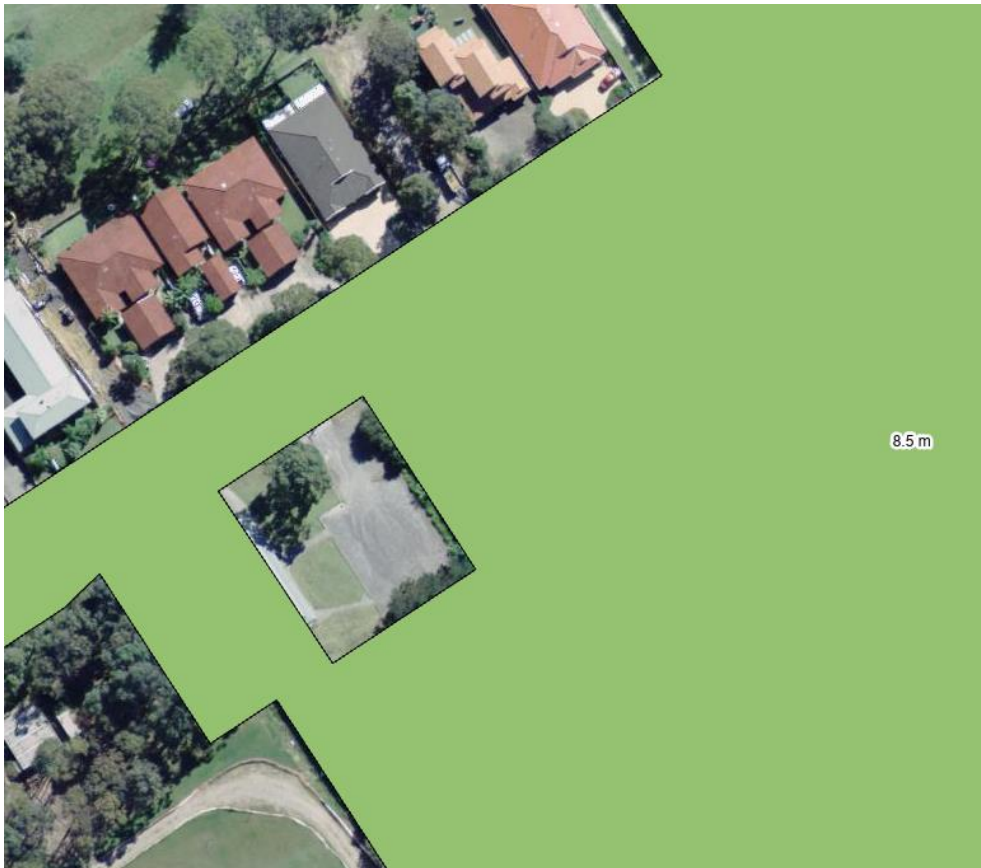


Figure 5 Current height of building map (source: NSW Planning Portal Spatial Viewer, accessed 28/09/2023)

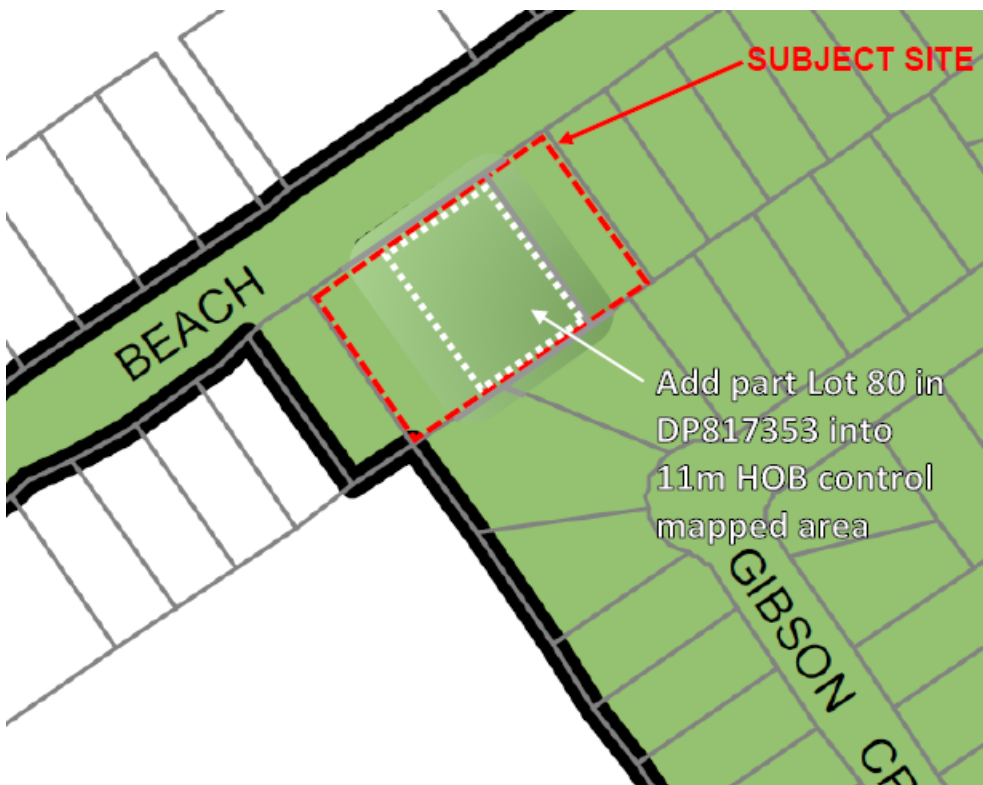


Figure 6 Proposed height of building map (source: Planning Proposal)

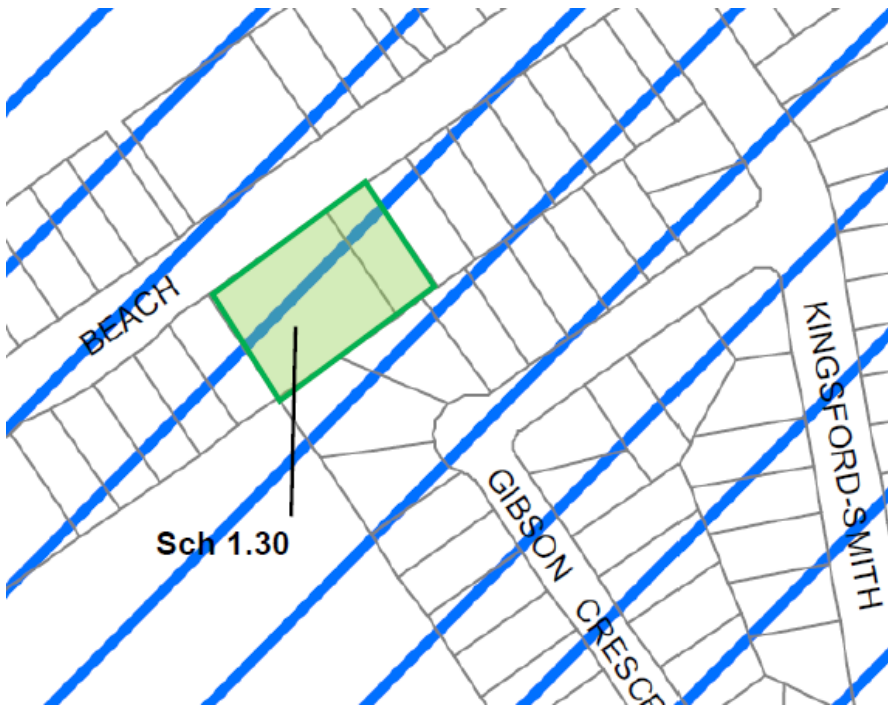


Figure 7 Proposed Schedule 1 map addition (source: Planning Proposal)

1.6 Background

The planning proposal was the subject of a Rezoning Review.

On 14 December 2022, All About Planning lodged a rezoning review request as Council did not support the planning proposal proceeding to Gateway.

The rezoning review application states the proposal has merit because:

- The proposal has overall positive urban design outcomes,
- The suitability of the site given the immediate proximity to existing R3 zoned land,
- The adjacent public library and close proximity to the existing B2 Local Centre, and
- The potential for delivery of affordable housing opportunities for the Sanctuary Point area.

Shoalhaven City Council provided detailed comments and indicated that Council does not support the rezoning of the land. Council stated that the proposal does not satisfy the Strategic Merit Test and that there is no strategic planning justification to support the Planning Proposal. Council also considered site specific aspects of the proposal had not been adequately addressed.

A rezoning review briefing and site inspection was undertaken on the 2 March 2023. The Southern Region Planning Panel decision was handed down on the 24 March 2023. The Panel determined that the proposal should be submitted for a Gateway determination because the proposal has demonstrated strategic merit and subject to minor changes has site specific merit.

2 Need for the planning proposal

The planning proposal is not the direct result of any local planning priorities or actions identified in the Shoalhaven Local Strategic Planning Statement (LSPS) or other strategic documents.

The intent of the PP is to deliver medium density housing on the site, as the current R2 and SP2 zone provisions do not permit multi dwelling housing. It is additionally intended to permit a consistent height of buildings for the site of 11m, this being a maximum 3 storey built form outcome.

The planning proposal is the appropriate mechanism to facilitate the amendment of the Shoalhaven LEP 2014 to make the proposed zoning, Height and Schedule 1 changes to enable future development of the land.

3 Strategic Assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Illawarra Shoalhaven Regional Plan 2041.

Table 4 Regional Plan assessment

| Regional Plan Objectives | Justification |
|---|--|
| Objective 18: Provide housing supply in the right locations | The site is located within walking distance to the Sanctuary Point Local Centre and existing service facilities. The proposed development will provide additional housing in an established strategic centre. |
| Objective 19: Deliver housing that is more diverse and affordable | <p>It is proposed to permit multi dwelling development on the site. The proponent envisages a three storey terrace style building form along the street frontage, and two smaller two storey built forms towards the rear of the site, separated by a shared path pedestrian and vehicle access.</p> <p>This would allow additional diversity in housing.</p> <p>Shoalhaven City Council previously requested that the applicant provide diverse housing which included 1 bedroom apartments as part of the proposal to meet demand within the area. The make-up of the apartments would be further addressed at DA stage.</p> |
| Objective 21: Respond to the changing needs of local neighbourhoods | The proposed development is located within walking distance to the existing strategic centre of Sanctuary Point, is located next to a school and responds to the changing needs of the community, through increasing density. |

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 6 Local strategic planning assessment

| Local Strategies | Justification |
|---|---|
| Shoalhaven 2032 | <p>The PP is consistent with the Objectives and Vision of Council's Community Strategic Plan and the actions listed below:</p> <ul style="list-style-type: none"> • Theme 3 – Prosperous Communities including creating jobs and invest in Tourism. • Objective 3.1 maintain and grow a robust economy with vibrant towns and villages. |
| Shoalhaven 2040: Local Strategic Planning Statement | The proposed development contributes to the provision of additional housing to meet the needs of the growing and aging population, in an existing serviced locality. |

3.3 Local Planning Panel (LPP) recommendation

The Panel determined that the proposal should be submitted for a Gateway determination because the proposal has demonstrated strategic merit and subject to minor changes, site specific merit.

The Panel did not support a development of residential flat building with a 13m height limit. The Panel did note the transitional nature of the site and its juxtaposition between the R2 and R3 Residential zones and the 8m (R2) and 11m (R3) height controls applicable to those zones. In this respect the Panel considered that the site should be rezoned R2 to enable multi-dwelling housing with a predominant 11m height limit (consistent with the existing 11m height limit on approx. 50% of the site currently zoned SP2) but with a transition in height to the south to ensure any resultant-built form appropriately addressed the low-density residential properties adjoining the southern boundary of the site.

It was decided this could be achieved by a Schedule 1 Additional Permitted Use provision with appropriate objectives to achieve the desired transitions in height to the boundaries. The Panel further concluded that any such rezoning could be complimented by appropriate setbacks for the site either through a development control plan or in any development application submitted for the development of the site.

The Planning Panel as delegate of the Minister for Planning has determined to appoint itself as the Planning Proposal Authority (PPA) for this planning proposal given Shoalhaven City Council has previously refused to progress the proposal. In accordance with Section 3.32(1) of the *Environmental Planning and Assessment Act 1979*.

The site design has since been reworked to satisfy the resolution of the Southern Planning Panel, to allow Multi Dwelling Housing as an additional permitted land use in the low density zone, up to height of 11m above natural ground level and successfully incorporates the Panel's requirement to achieve a transition in building height with the adjoining residential land. Parliamentary Counsel will ultimately decide on the wording of a schedule 1 entry.

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 | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|--------------------------------------|----------------------------|--|
| 1.1 Implementation of Regional Plans | Yes | Refer to section 3.1 of this report. |
| 4.1 Flooding | N/A | The sites are not identified as being impacted by flooding. |
| 4.2 Coastal Management | N/A | The sites are not identified as being impacted by coastal management requirements. |
| 4.3 Planning for Bushfire Protection | N/A | The sites are not identified as bushfire prone land. |
| 4.4 Remediation of Contaminated Land | N/A | The sites are not identified as having a previous use which could cause contamination or as requiring remediation works. |
| 4.5 Acid Sulphate Soils | Yes | The sites are identified as containing class #5 ASS and will need to be taken into consideration as part of any future development application on the land. |
| 6.1 Residential Zones | Yes | This direction applies as the PP affects land within the existing R2 Low Density Residential and R5 Large Lot Residential zones. The PP will not reduce the permissible residential density of land and is consistent. |

3.5 State Environmental Planning Policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

| SEPPs | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|------------------------------------|----------------------------|---|
| SEPP (Resilience and Hazards) 2021 | Yes | There are no provisions in this SEPP that directly apply to the PP, however it is noted that the SEPP will need to be taken into consideration as part of any future development application on the land. |

| SEPPs | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency |
|---|----------------------------|---|
| SEPP (Housing) 2021 | Yes | There are no provisions in this SEPP that directly apply to the PP, however it is noted that the SEPP will need to be taken into consideration as part of any future development application on the land. |
| SEPP (Building Sustainability Index: BASIX) 2004 | Yes | There are no provisions in this SEPP that directly apply to the PP, however it is noted that the SEPP will need to be taken into consideration as part of any future development application on the land. |
| State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development | Yes | There are no provisions in this SEPP that directly apply to the PP, however it is noted that the SEPP will need to be taken into consideration as part of any future development application on the land. |

4 Site-specific assessment

4.1 Environmental

The planning proposal is unlikely to have any adverse environmental impacts. The site is currently developed.

4.2 Social and economic

The planning proposal is unlikely to have any negative social or economic impacts but will provide additional housing opportunities and a small increase in population to support local businesses.

4.3 Infrastructure

The planning proposal has no requirement for any additional infrastructure to be provided and will not impact on existing infrastructure within the vicinity.

5 Consultation

5.1 Community

The planning proposal is categorised as a standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

It is recommended that no further agencies be consulted on the planning proposal.

6 Timeframe

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard

The Department recommends an LEP completion date of 25 June 2024 in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance from the department in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

The Planning Panel as delegate of the Minister for Planning has determined to appoint itself as the PPA for this planning proposal given Shoalhaven City Council has previously refused to progress the proposal. In accordance with Section 3.32(1) of the Environmental Planning and Assessment Act, 1979.

The Department recommends that Council **not be** authorised to be the local plan-making authority for this proposal as it has previously not supported it.

8 Assessment summary

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

- The current SP2 Infrastructure zoning, which, in part, applies to the site is generally redundant;
- The site is located partly on R2 zoned land and is located opposite R3 residentially zoned land. Under these circumstances the renewal of the site for residential development would be consistent with both the existing and future desired character of the area;
- The uplift would also provide for a transition of land use from the institutional and commercial and retail uses to the west to the lower residential densities to the east and south;
- The Planning Proposal would provide additional housing and housing choice within an existing urban framework with access to services;
- It is consistent with local and regional strategic planning.

9 Recommendation

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

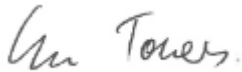
The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal should be made available for community consultation for a minimum of 20 working days

2. No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the Act

Given the nature of the planning proposal, it is recommended that the Gateway **NOT** authorise council to be the local plan-making authority.

The timeframe for the LEP to be completed is on or before 25 June 2024



20/10/23

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