

Appendix 2 – Evaluation of Existing Qualifying Matters (under sections 77I(a) to (i))

The analysis that follows provides an evaluation of the existing qualifying matters in accordance with the requirements of section 77K RMA for matters identified in Section 77I(a)-(i). This section requires the Council to do the following for each existing qualifying matter:

- identify by location (for example, by mapping) where an existing qualifying matter applies.
- specify the alternative density standards proposed for those areas identified under paragraph (a).
- identify in the report prepared under section 32 why the territorial authority considers that 1 or more existing qualifying matters apply to those areas identified under paragraph (a).
- describe in general terms for a typical site in those areas identified under paragraph (a) the level of development that would be prevented by accommodating the qualifying matter, in comparison with the level of development that would have been permitted by the MDRS.
- notify the existing qualifying matters in the IPI.

A consolidated series of maps is included at Appendix 18 that shows the locations of existing and new qualifying matters, which is also summarised in Table 1 below.

In most cases below, the underlying Residential 1 and 2 zone provisions will apply, and alternative density standards are not proposed through the use of a lower density zone. The rules relating to the qualifying matter itself will potentially limit the heights and densities achievable, but not in all cases, and this will depend on the nature and extent of the qualifying matter, including whether it applies to only part of a site. This is the approach taken in the operative District Plan and is considered to be the most efficient and effective method for achieving the objectives relating to the qualifying matter, providing at least sufficient development capacity in the urban environment and achieving an integrated built form. The exception to this is the approach to the Residential 3 zone, and the reasons for this are discussed in detail in the section 32 report above, and in the analysis in *Appendix 4*.

Table 1: Evaluation of Existing Qualifying Matters (under Section 77I(a) to (i)) in Accordance with Section 77K

Chapter	Rule	Location where applies (s77K(a))	Alternative density standard (s77K(b))	Applicable existing Qualifying Matter (s77K(c))	Level of development prevented compared to the MDRS (s77K(d))
Energy, Infrastructure and Transport					

Rotorua Regional Airport obstacle Limitation Surface	EIT-R17 - Buildings and Structures - where the height limit is less than the MDRS	Shown in Planning Map 207 Rotorua Airport Clearance to Obstacle Limitation Surface LF and as defined by the Rotorua Regional Airport Limited designation RDC-501.	Alternative height rules based on the Obstacle Limitation Surface as defined by the Rotorua Regional Airport Limited designation RDC-591. Infringement of the Obstacle Limitation Surface requires resource consent as a Restricted Discretionary Activity.	Qualifying matter for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure (RMA Amendment Act s77I(e)).	Building heights in some sites may be limited by the height and location of the Obstacle Limitation Surface.
Rotorua Regional Airport Noise Control Area Overlay	SUB-R39 - The subdivision of sites or buildings within or dissected by the Airport Inner Control Area Overlay	Shown in Planning Map 207 Rotorua Airport Noise Control Contours RF and is only applicable in the Residential 1 Zone.	Discretionary Activity Status for Residential 1 Zone dissected by the Airport Inner Noise Control Area Overlay where the subdivision will create a vacant site that will require a land use consent for future development by any rule in the plan. Subdivision and land use consent shall be lodged concurrently.	Qualifying matter for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure (RMA Amendment Act s77I(e)).	Density may be limited where a site is dissected by the Airport Inner Control Area Overlay. Considered in Policies and Assessment Criteria.
	SUB-R40 - Subdivision of sites or buildings within or dissected by the Air Noise Area Overlay	Shown in Planning Map 207 Rotorua Airport Noise Control Contours RF and is only applicable in the Residential 1 Zone.	Non-Complying Activity Status for sites dissected by the Air Noise Overlay where subdivision is proposed around existing household units, for the purpose of a boundary adjustment, or the conversion of a cross lease. Any activity not stated above results in a Prohibited Activity Standard.	Qualifying matter for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure (RMA Amendment Act s77I(e)).	Density may be limited where a site is dissected by the Airport Inner Control Area overlay. Is supported in Policies and Assessment Criteria.
National Grid Yard and Corridor	EIT-R18 - Buildings and structures within the National Grid Yard	Sites within the National Grid Yard as shown in the Planning Maps and is applicable	Alternative performance standards for setbacks from structures within the National Grid yard. Obstruction of	Qualifying matter for the purpose of ensuring the safe or efficient operation of nationally significant	Density and building height may be limited where the site is within the National

		in the Residential and Commercial Zones.	these performance standards results in a Non-Complying Activity. Activities must be within an existing developed site; and for an uninhabitable accessory building; or a building that is not associated with a sensitive activity. Only small accessory buildings (under 2.5m high and 10m² in area) associated with sensitive activities are provided for where the activity is more than 12m from the outer visible edge of a National Grid support structure foundation or stay wire. Activities, buildings, and structures within the National Grid Yard, shall achieve a minimum clearance of 10m from the conductor or demonstrate safe electrical clearance. Non-compliance results in a Non-Complying Activity Status.	infrastructure (RMA Amendment Act s77I(e)). Current rules will protect efficient operation of the national grid within MDRS framework.	Grid Yard, is within 12m of the outer visible edge of a support structure or stay wire or is within a 10m clearance from the conductor. Note correspondence received from Transpower dated 9 June 2022 supports the inclusion of the National Grid provisions as a qualifying matter.
National Grid Yard and Corridor - Subdivision	SUB-R38 – The subdivision of sites or buildings within a national grid yard or corridors	Sites within the National Grid Yard as shown in the Planning Maps.	Restricted Discretionary Activity Status where the building platform for the principal dwelling or building is identified wholly outside of the National Grid Yard. Non-compliance results in a Non-Complying Activity Status.	Qualifying matter for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure (RMA Amendment Act s77I(e)).	Subdivision potential and building setbacks may be limited which may restrict the density that is able to be provided for on sites within the National Grid Yard.

Natural Hazards					
Fault Lines	NH-R1 - Additions to existing buildings or replacement buildings in the Fault Avoidance Area Overlay	Shown in Planning Map 210 Areas of Potential Fault Line Impact. A Residential 1 Zone area in Tihiotonga is affected by the Fault Avoidance Area overlay.	Requires that any replacement building is in the existing building footprint to be a Permitted Activity Status within the Fault Avoidance Area Overlay. Any replacement building which exceeds the building platform has a Restricted Discretionary Activity Status.	Qualifying matter as the management of significant risks from natural hazards is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(h)). Current rules will protect against natural hazards within MDRS framework.	Density may be limited sites within the Fault Avoidance Area Overlay.
	NH-R3 - New buildings in the Fault Avoidance Area Overlay	Shown in Planning Map 210 Areas of Potential Fault Line Impact. A Residential 1 Zone area in Tihiotonga is affected by the Fault Avoidance Area overlay.	Alternative density standards for sites where the activity is a new building within the Fault Avoidance Area Overlay. Any new building within the Fault Avoidance Area Overlay is a Restricted Discretionary Activity.	Qualifying matter as the management of significant risks from natural hazards is a matter of national importance (RMA Amendment Act s771(a))(RMA s6(h)). Current rules will protect against natural hazards within MDRS framework	Density may be limited on sites within the Fault Avoidance Area Overlay.
Geothermal	NH-R6 - Buildings erected within 5m of the edge of the Geothermal Surface Feature or Bore	Sites within 5m of the edge of a Geothermal Surface Feature or Bore as shown in the Planning Maps.	Alternative rule relating to density based on proximity to a Geothermal Feature or Bore. Restricted Discretionary Activity Status for buildings that are erected within 5m	Qualifying matter as the management of significant risks from natural hazards is a matter of national importance (RMA	Density may be limited on sites which have buildings erected within 5m of the Geothermal

			of the edge of the Geothermal Surface Feature or Bore.	Amendment Act s77I(a)) (RMA s6(h)).	Surface Feature or Bore.
Geothermal – Subdivision	SUB-R42 - The subdivision of sites or buildings on land affected by a geothermal feature, geothermal activity or bore	Sites which are affected by a geothermal feature, geothermal activity or bore as shown in the Planning Maps.	Alternative rule relating to the subdivision of sites which are affected by a geothermal feature, activity or bore. Discretionary activity status with no specific standards to be complied with.	Qualifying matter as the management of significant risks from natural hazards is a matter of national importance (RMA Amendment Act Section 77I(a)) (RMA s6(h)).	Subdivision potential may be limited which may restrict the density that is able to be provided for on sites which are affected by a geothermal feature, geothermal activity or bore.
Historic and Cultural Values					
Built Historic Heritage	HH-R2 - Alterations and additions to Historic heritage structures listed in the Historic Structures Schedule.	As shown in the Planning Maps sites which are in the Historic Structures Overlay as listed in the Historic Structures Schedule.	Permitted Activity Status for internal alterations and additions to historic heritage structures where only the exterior of the structure is identified for protection in the Historic Structures Schedule. Where the activity is not provided for above a Restricted Discretionary Activity Status applies.	Qualifying matter as the protection of historic heritage from inappropriate subdivision use and development is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(f)).	Density, building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to street, or landscape area may be limited by the form and location of the existing historic structure.
	HH-R3 - Re-siting, destruction or demolition of a historic heritage	As shown in the Planning Maps sites which are located in the Historic Structures	Discretionary Activity Status for the re-siting, destruction or demolition of a historic heritage structure if required for new infrastructure.	Qualifying matter as the protection of historic heritage from inappropriate subdivision	Density, building height, height in relation to boundary, building setbacks,

	structure listed in the Historic Structures Schedule	Overlay as listed in the Historic Structures Schedule.	Where the activity is not provided for above a Non-Complying Activity Status applies.	use and development is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(f)).	building coverage, outdoor living space, outlook space, windows to street, or landscape area may be limited by the form and location of the existing historic structure.
Built Historic Heritage - Subdivision	SUB-R41 – Subdivision activity where the site includes or adjoins a site of cultural importance listed in the schedules for Historical and Cultural Values	Sites or adjoining sites which are listed in the Archaeological Sites Schedule, Historic Structures Schedule, Notable Trees Schedule, Structures and Sites of Cultural Significance Schedule, and the Marae Schedule applicable in the Residential Zone.	Additional rule relating to the subdivision of sites and adjoining sites listed in the schedules for Historical and Cultural Values. Subdivision is a discretionary activity with no specific standards to be complied with.	Qualifying matter as the protection of historic heritage from inappropriate subdivision use and development is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(f)). Current rules will protect historic heritage within MDRS framework.	Subdivision potential may be limited which may restrict the density that is able to be provided for on sites and adjoining sites which are listed in the Schedules for Historical and Cultural Values.
Archaeological Sites and Historic Sites	HH-R5 - Disturbance, modification and alteration of cultural historic heritage listed in the Archaeological Sites Schedule or Historic Sites Schedule.	As shown in the Planning Maps sites which are located in the Archaeological Sites Overlay or Historic Sites Overlay as listed in the Archaeological Sites Schedule or Historic Sites Schedule.	Discretionary Activity Status for disturbance, modification, and alteration of historic heritage listed in the Archaeological Sites Schedule or Historic Sites Schedule.	Qualifying matter as the protection of historic heritage from inappropriate subdivision use and development is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(f)).	Density, building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to street, or landscape area may

				Current rules will protect archaeological sites within MDRS framework.	be limited on sites listed in the Archaeological Sites Schedule or Historic Sites Schedule.
	HH-R6 - Destruction of cultural historic heritage listed in the archaeological sites schedule or historic sites schedule	As shown in the Planning Maps sites which are located in the Archaeological Sites Overlay or Historic Sites Overlay as listed in the Archaeological Sites Schedule or Historic Sites Schedule.	Non-Complying Activity Status for the destruction of cultural historic heritage listed in the Archaeological Sites Schedule or Historic Sites Schedule.	Qualifying matter as the protection of historic heritage from inappropriate subdivision use and development is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(f)). Current rules will protect archaeological sites within MDRS framework.	Density, building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to street, or landscape area may be limited on sites with historic heritage structures.
	SUB-R41 Subdivision activity, including that which otherwise be a controlled activity where the site includes or adjoins a site of cultural importance listed in the schedules for Historical and Cultural Values	As shown in the Planning Maps sites which are located in the Archaeological Sites Overlay or Historic Sites Overlay as listed in the Archaeological Sites Schedule or Historic Sites Schedule.	Discretionary activity status for subdivision where a site includes or adjoins a site of cultural importance listed in the schedules for Historical and Cultural Values.	Qualifying matter as the protection of historic heritage from inappropriate subdivision use and development is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(f)). Current rules will protect archaeological sites within MDRS framework.	Subdivision potential may be limited which may restrict the density that is able to be provided for on sites and adjoining sites which are listed in the Schedules for Historical and Cultural Values.

Sites and Areas of Significance to Maori	SASM-R3 - Disturbance, modification and alteration of cultural historic heritage listed in the structures and sites of cultural historic significance schedule	As shown in the Planning Maps sites which are located in the Structures and Sites of Cultural Significance Overlay as listed in the Structures and Sites of Cultural Significance Schedule.	Disturbance, modification and alteration of cultural historic heritage is a discretionary activity and destruction or demolition is non-complying activity.	Qualifying matter as the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(e)). Current rules will protect sites of significance within MDRS framework.	Density, building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to street, or landscape area may be limited by the form and location of structures and sites of cultural historic significance.
	SASM-R4 - Destruction of cultural historic heritage listed in the structures and sites of cultural significance schedule	As shown in the Planning Maps sites which are located in the Structures and Sites of Cultural Significance Overlay as listed in the Structures and Sites of Cultural Significance Schedule.	Non-Complying Activity Status for the destruction of structures and sites of cultural significance.	Qualifying matter as the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(e)).	Density, building height, height in relation to boundary, building setbacks, building coverage, outdoor living space, outlook space, windows to street, or landscape area may be limited on sites with structures and sites of cultural significance.
Sites and Areas of Significance to Maori	SASM-R5 - Alterations to existing buildings located within the	As shown in the Planning Maps sites which are located in the	Alterations to existing buildings is a restricted discretionary activity. Alternative height rule standard of 5m based on the height of the marae for	Qualifying matter as the relationship of Māori and their culture and traditions with their	Building height, height in relation to boundary and outlook space may be

Marae Protection Overlay	Marae Protection Area Overlay Also relevant is the alternative height standard in RESZ-S1.	Marae Protection Overlay.	sites as shown in the Marae Protection Overlay.	ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(e)).	limited by the height and form of the marae adjacent for sites within the Marae Protection Overlay.
	SASM-R6 - New buildings within the Marae Protection Area Overlay Also relevant is the alternative height standard in RESZ-S1.	As shown in the Planning Maps sites which are located in the Marae Protection Overlay.	New buildings within the Marae Protection overlay is a discretionary activity Alternative height standard of 5m based on the height of the marae for sites as shown in the Marae Protection Overlay.	Qualifying matter as the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(e)).	Building height, height in relation to boundary and outlook space may be limited by the height and form of the marae adjacent for sites within the Marae Protection Overlay.
Natural Environment Values					
Ecosystems and Biodiversity	ECO-R1 Buildings or structures in an SNA	As shown in the Planning Maps sites which are located in the Significant Natural Areas Overlay.	Alterations and new buildings are permitted where the existing building footprint is not exceeded and compliance with performance standards achieved. Otherwise new buildings are a non-complying activity. Vegetation clearance for development a non-complying activity.	Qualifying matter as the protection of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(c)). Current rules will protect SNA within MDRS framework.	Density, building setbacks and site coverage may be limited by the location of Significant Natural Areas on a site.

Natural Character					
Natural Features and Landscapes	NFL-R1 - Buildings and structures (including lake structures) in an Outstanding Natural Feature or Landscape	Sites which are located in the Outstanding Natural Landscape Overlay except the Mamakū Tors Outstanding Natural Landscape as shown in Planning Map 214.	Alterations and new buildings are permitted where the existing building footprint is not exceeded and compliance with performance standards achieved. Otherwise, new buildings are a discretionary activity.	Qualifying matter as the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(b)). Current rules will protect outstanding natural features and landscapes within MDRS framework.	Density, building height, height in relation to boundary, building setbacks, building coverage and windows to street may be limited due to the location of an Outstanding Natural Feature or Landscape.
	NFL-R19 - Development and earthworks adjacent to a Significant Geothermal Feature	Sites adjacent to Significant Geothermal Features as identified by the Bay of Plenty Regional Council.	An alternative setback for buildings, structures, activities or earthworks based on the location of a Significant Geothermal Feature. Buildings, structures, activities and earthworks must be setback 5m from a Significant Geothermal Feature.	Qualifying matter as the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(b)).	Density, building setbacks and building coverage may be limited due to the proximity of a building or structure to a Significant Geothermal Feature or its location.
	NFL-R20 - Development and earthworks that will affect a Significant Geothermal Feature	Sites adjacent to Significant Geothermal Features as identified by the Bay of Plenty Regional Council.	Discretionary activity status for development and earthworks that will affect a significant geothermal feature unless it has Regional Council consent, is permitted by a Regional	Qualifying matter as the protection of outstanding natural features and landscapes from inappropriate subdivision,	Density, building height, height in relation to boundary, building setbacks, building coverage,

			Rule, is geothermal electricity generation or is associated with existing infrastructure.	use and development is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(b)).	outdoor living space, outlook space, windows to street, or landscape area may be limited by the location of a Significant Geothermal Feature.
Public Access	PA-R1 - Buildings and structures located within 25m of the edge of a lake, 25m of a river or stream identified in the Esplanade Priority Acquisition Waterbody Overlay, or 5m of an esplanade reserve or strip.	Sites which are located within 25 m of the edge of a lake, 25m of a river or stream identified in the Esplanade Priority Acquisition Waterbody Overlay or 5m of an esplanade reserve or strips as shown in Planning Map 203.	An alternative setback for buildings and structures which requires a 25m setback of the edge of a lake, river or stream identified as an Esplanade Priority Acquisition Waterbody Overlay or 5m of an esplanade reserve or strip. Infringement of the setback results in a discretionary activity status.	Qualifying matter as the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers is a matter of national importance (RMA Amendment Act s77I(a)) (RMA s6(d)). Current rules will protect public access within MDRS framework.	Building setbacks may be limited if it infringes on the setbacks of a lake, stream or esplanade reserve.
General District Wide Matters					
NOISE	NOISE-R7 – Noise sensitive activity within the Inner Noise Control Area (60dBA Control Boundary)	Shown in Planning Map 207 Rotorua Airport Noise Control Contours RF areas inside the Airport Inner Noise Control Area Overlay 60dBA.	Additional rule relating to the expansion of existing noise sensitive activities or the establishment of new noise sensitive activities within the area as determined by the Airport Inner Noise Control Area Overlay 60dBA. The activity is permitted where it is an addition to an existing activity and	Qualifying matter for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure (RMA Amendment Act s77I(e)).	Building height, height in relation to boundary and building setbacks may be limited by the location of the Airport Inner Noise Control Area Overlay 60dBA. However,

			does not expand the gross floor area more than 25%. Where the performance standards are not met the activity status is restricted discretionary. When the activity is a new noise sensitive activity the activity status is discretionary.		construction practices are in most instances able to overcome these limitations.
	NOISE-R8 - Noise sensitive activities within the airport air noise overlay (65dBa Control Boundary)	Shown in Planning Map 207 Rotorua Airport Noise Control Contours RF areas inside the Airport Noise Control Area Overlay 65dBA.	Additional rule relating to the extension of existing noise sensitive activities and the establishment of a new noise sensitive activity within the Airport Noise Area Overlay 65dBA Control Boundary. The extension, upgrade, or replacement of a building for a noise sensitive activity is a non-complying activity. When the activity is a new noise sensitive activity the activity status is Prohibited.	Qualifying matter for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure (RMA Amendment Act s771(e)).	If the activity is the extension, upgrade or replacement of an existing noise sensitive activity building height, height in relation to boundary and building setbacks may be limited by the location of the Airport Noise Control Area Overlay 65dBA. However, construction practices are in most instances able to overcome these limitations. If the activity is the establishment of a new activity,

					residential development is not allowed.
Development Areas					
Pukehāngi Heights Development Area	PHDA-R5 - Subdivision and PHDA-R7 - Subdivision where the site includes an archaeological or cultural site And associated performance standards for these subdivision rules relating to s6 matters: PHDA-SS6, PHDA-SS7, PHDA-SS8, PHDA-SS10	Sites which are located within the Pukehāngi Heights Development Area and Zoned Residential 1, as shown in the Planning Maps.	These two rules require consent as a restricted discretionary activity for subdivision of sites within the Pukehāngi Development Area. The matters of discretion and performance standards are the same. Discretion is retained over achievement of the policies and objectives for the development area. The performance standards include several that address matters of national importance (requirements to: undertake stormwater management plan and be consistent with that plan (PHDA-SS6); comply with stormwater management discharge consent (PHDA-SS7); undertake a land instability and liquefaction risk assessment (PHDA-SS8); and undertake consultation with iwi and identify measures to protect cultural values (PHDA-SS10)).	Qualifying matter as the management of significant risks from natural hazards is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(h)) and as the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga is a matter of national importance (RMA Amendment Act s771(a)) (RMA s6(e)).	Discretion and standards over cultural sites and values could potentially impact yield but this is likely to only be in a minor way. In terms of flood management standards - difficult to quantify extent to which development will be prevented as compliance with stormwater discharge consent required in any case under regional plan. Standard is rather to ensure integration of subdivision and subsequent land use and discharge consent requirements.

Wharenui Development Area	WHDA-S3 Traffic Mitigation and associated rules WHDA-R3 and WHDA-R4 SH30 intersection components (refer to table 2 for traffic calming components). (Proposed to be amended to remove projects that have been completed or are planned to be constructed in the next phase of works to SH30 Eastern Corridor)	Wharenui Development Area, as shown on the planning maps	Performance standards requiring that development in the development area not exceed lot yields until specific traffic calming and intersection upgrades are completed.	Qualifying matter as a matter required for the purpose of ensuring the safe or efficient operation of nationally significant infrastructure (s771(e)) (with respect to the SH30 intersection upgrades – the traffic calming projects are addressed under ‘other’ qualifying matters)	Potentially prevents development from occurring past a set lot yield until the intersection upgrades are completed. *This standard is proposed to amended to remove projects that have been completed or are planned as part of the Waka Kotahi SH30 Eastern Corridor, for which received \$35m crown infrastructure funding to support growth and development in Eastside.
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