
Proposed Two No. Borrow Pits within the Site of the Consented but Unbuilt Berry Burn Wind Farm Extension

Pre-Application Consultation Report

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1. Introduction

1.1. Proposal Background

1.1.1. This Pre-Application Consultation (PAC) Report has been prepared on behalf of BB2 Wind Farm Ltd ('the Applicant') in support of an application to Moray Council (MC) for planning permission for the winning and working of aggregate from two borrow pits (the Proposed Development) to support the construction of the consented but unbuilt Berry Burn Wind Farm Extension (the consented wind farm).

1.1.2. The site extends to 14.08 hectares (ha) and is situated approximately 12 kilometres (km) south of the nearest settlement of Forres. The locations of the two borrow pit search areas are located within the site of the consented wind farm as shown on Figure 1.

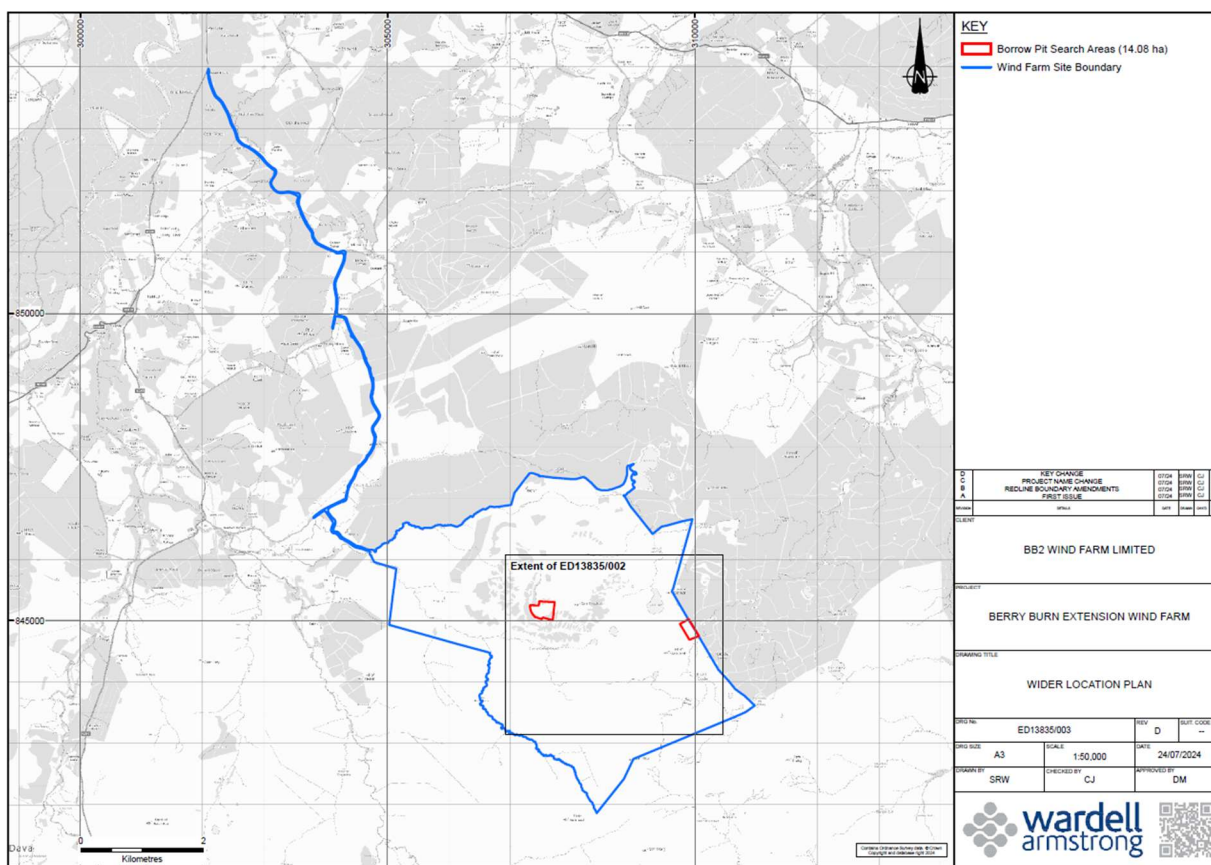


Figure 1 - Borrow Pits Wider Location Plan

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- 1.1.3. Section 36 consent and deemed planning permission was granted for the consented wind farm by Scottish Ministers on 8 December 2021. MC, as host local planning authority (LPA) and a consultee in that application process, did not raise any objections. The Section 36 consent and deemed planning permission includes two borrow pit search areas, as shown on the approved site layout plan which is reproduced as Figure 2 below.
- 1.1.4. Recent site investigation works undertaken by the Applicant have confirmed that there is an insufficient amount of suitable construction material within the boundaries of the two consented borrow pit areas required to construct the wind farm. The Applicant therefore wishes to increase the size of borrow pit one and seek planning permission for an entirely new borrow pit referred to as borrow pit 2a, located to the east of the consented wind farm boundary. The Applicant does not intend to undertake any excavations within the consented borrow pit 2 area.

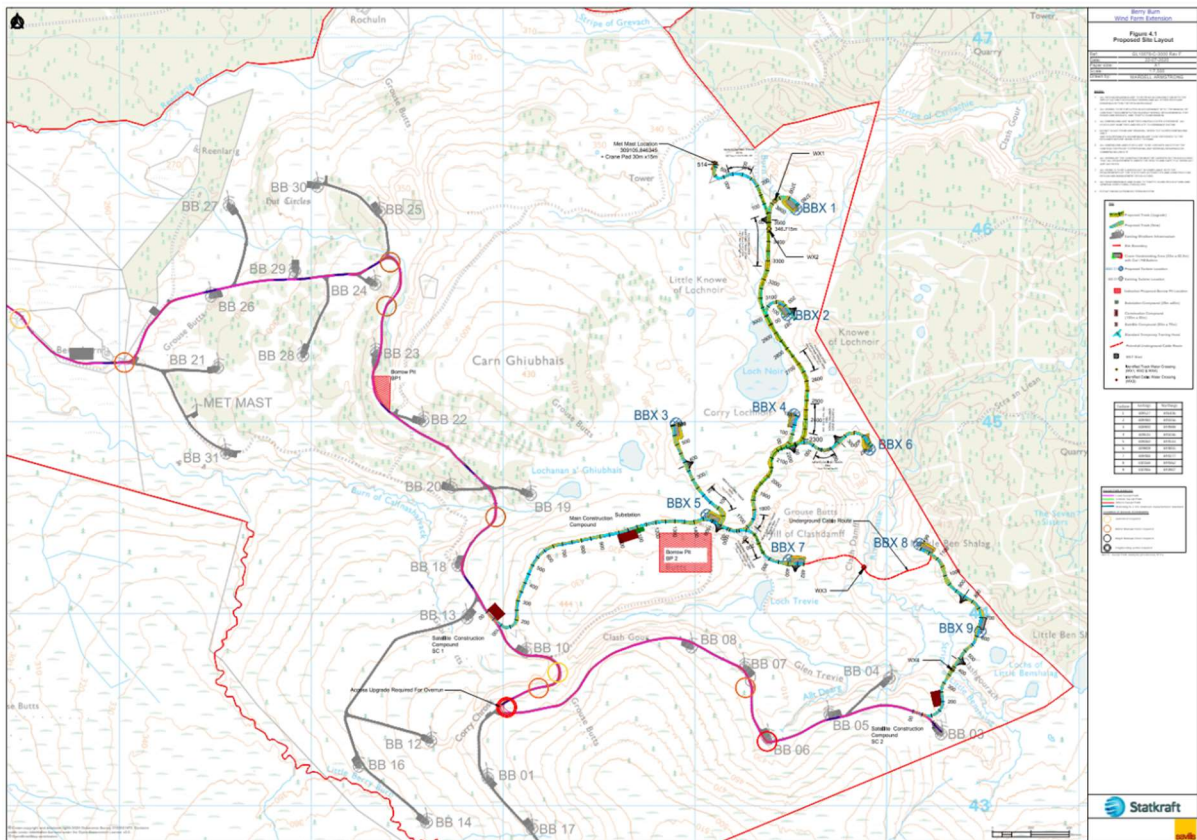


Figure 2 - Approved Berry Burn Wind Farm Extension Site Layout Plan

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- 1.1.5. The principle of excavating aggregate from within borrow pits to construct the consented wind farm has been established through the aforementioned Section 36 consent and deemed planning permission, with excavated material required to construct access tracks and foundations for wind turbines. The winning and working of aggregate from onsite borrow pits reduces the need to import aggregate to construct the consented wind farm, by avoiding the need to import this material from offsite quarries, which reduces the impact of wind farm construction activities as vehicles will not be required to import material from outwith the site, thereby significantly reducing traffic numbers on the local road network during the construction phase of the consented wind farm.
- 1.1.6. The excavation of materials would run during the construction phase of the consented wind farm only. Once construction works have ceased, it is anticipated that the voids left in each of the borrow pits would be backfilled with suitable material arising from construction works and then subject to an appropriate period of aftercare.
- 1.1.7. Borrow Pit BP1 which extends to 9.04 ha is located next to an operational wind turbine while borrow pit BP2A is located on open moorland immediately south of the consented turbine T6 location and extends to 5.04 ha.
- 1.1.8. BP1 was used as a source of aggregate during construction of the operational Berry Burn Wind Farm and offers scope for further suitable construction material, although it is necessary to expand the size of the consented BP1 to gain the required volume of aggregate.
- 1.1.9. Material extracted from the two borrow pit areas would be transported to construction activities via the network of existing or new access tracks associated with the consented wind farm.

1.2. Major Development Threshold and Legislative Requirements

- 1.2.1. The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations came into force in April 2009. These Regulations split developments into three different categories depending on the scale of the development proposed namely 'local', 'major' or 'national' in scale. The Proposed Development falls into Category 8 of the Regulations 'Minerals', for which the threshold for development becoming 'major' is where the area is or exceeds 2.0 ha. As the site area of the two borrow pits exceeds this threshold, the Proposed Development is to be treated as a 'major' development with associated statutory pre-application consultation requirements, as discussed in Section 2.

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2. Statutory Consultation Requirements

2.1.1. The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as revised in 2021) set out the submission requirements for planning applications. Regulations 4-7 address the need for statutory pre-application engagement between applicants and host communities where development proposals are 'major'. Regulation 4 in particular states that the submission of any application falling under the category of 'major' needs to be preceded by the submission of a Proposal of Application Notice (PoAN), at least 12 weeks prior to the submission of the application. Regulations 6 and 7 state that the prospective applicant is to consult every Community Council whose area is within or adjoining the Proposed Development. Two in-person public events must be held prior to the submission of a planning application. The applicant must advertise the first public event 7 days prior to the event and the second public event must be held no less than 14 days after the first.

2.1.2. Planning Advice Note 3/2010 'Community Engagement' details the pre-application consultation requirements placed on prospective applicants at Paragraph 40. It states:

'Where pre-application consultation is required, the prospective applicant must send a proposal of application notice to the planning authority at least 12 weeks before submitting an application for planning permission. They must also send a copy of this notice to any relevant community councils. The notice will contain:

- i) General description of the Proposed Development;*
- ii) the address of the site (if it has one);*
- iii) a plan showing the outline of the site;*
- iv) contact information for the developer; and*
- v) a description of what consultation the developer is going to undertake, when it will take place, with whom and what form it will take'*

2.1.3. Circular 3/2022 'Development Management Procedures' states that the purpose of a PAC Report is to confirm that pre-application consultation has taken place and has been done in line with statutory minimum requirements set by the planning authority in its response to the PoAN.

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- 2.1.4. Circular 3/2022 confirms that in considering any subsequent application, the PAC Report is not likely to have a significant role, unless it identifies issues or contains information which could be considered a material consideration and to which the planning authority should give weight in determining the application.
- 2.1.5. While engagement should be meaningful, Circular 3/2022 also makes clear that *“the prospective applicant is not obliged to take on board community views, or directly reflect them in any subsequent application”*. (emphasis added)
- 2.1.6. Table 1 below sets out the minimum content of a PAC Report as set out in Circular 3/2022 and identifies the sections of this report which address these.

Table 1: Suggested minimum content of a PAC Report and reference to relevant PAC Report section

Circular 3/2022 Minimum Content of a PAC Report	Relevant PAC Report Section
Specify the dates and places where consultation has been held. Specify who has been consulted and provide any additional consultation required by the planning authority.	Sections 2 and 3
Set out what steps have been taken to comply with the statutory requirements and those of the planning authority.	Sections 2 and 3
Set out how the applicant has responded to the comments made, including whether and the extent to which the proposal has changed as a result of the PAC.	Section 4
Provide appropriate evidence that the various prescribed steps have been undertaken – e.g. copies of advertisements of the public events and reference to material made available at the events.	Appendices 1-8
Demonstrate that steps were taken to explain the nature of PAC, in particular, that it does not replace the application process whereby representations can be made to the planning authority.	Section 2 and 3 and Appendices 5 and 6

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2.2. Proposal of Application Notice

- 2.2.1. The formal pre-application process began following the submission of a PoAN and site location plan to the MC via email on 9th September 2024. The submitted PoAN is provided in Appendix 1.
- 2.2.2. A copy of the PoAN was submitted to Heldon Community Council; Finnerne Community Council; Local Ward Councillors (Councillor Scott Lawrence, Councillor Paul McBain, Councillor Kathleen Robertson and Councillor Draek van der Horn); Mr Graham Leadbitter MP; Mr Richard Lochhead MSP; and Finnerne Development Trust.
- 2.2.3. MC confirmed on 17th September 2024 (Ref. 24/01424/PAN) that the PoAN met the legislative requirements and no additional notification and/or consultation is required. A copy of the Council's formal response to the PoAN is included at Appendix 1. Throughout the pre-application process regular meetings were held with planning officers about the Proposed Development generally and to provide updates on consultation activities.
- 2.2.4. The first community consultation event was held on Tuesday 24th September between 15:00 and 19:00 at the Edinkillie Village Hall, A940, Forres, IV36 2QW. The second consultation event was held on Wednesday 30th October 2024 between the hours of 15:00 to 19:00 at the Dallas Village Hall, Dallas, Forres, IV36 2SA.
- 2.2.5. In accordance with statutory requirements, newspaper adverts setting out the details of the pre-application consultation were published (see Appendices 2 and 3). The first event was published in the Press & Journal (10.9.2024), Forres Gazette (11.9.2024) and Northern Scott (13.9.2024). The second event was also advertised in the Press & Journal (16.10.2024), Forres Gazette (18.10.2024) and Northern Scot (13.10.2024). The content of the newspaper article was in line with the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as revised 2021). Copies of the newspaper adverts for each event are presented in Appendices 2 and 3.
- 2.2.6. Additionally, invitations were distributed to approximately 650 residential properties within a 10km radius of the site in advance of both consultation events. Copies of the invitations for each event are represent in Appendix 4.

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2.2.7. The newspaper adverts set out details of the Proposed Development, the Applicant, the date and time of the in-person public events and details of the project website. They confirmed that anyone who wished to make representations to the Applicant should do so in writing, with both email and postal addresses provided. The adverts specified that written responses at this stage were not representations to the Council, and an opportunity to make formal representations to the Council would exist when a formal planning application was made.

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3. Consultation Undertaken

3.1.1. This section sets out the engagement that was carried out at the pre-application consultation phase.

3.2. Public Event 1

3.2.1. The Kane Partnership, on behalf of the Applicant, organised a public event on 24th September 2024 at the Edinkillie Village Hall.

3.2.2. Representatives of the Applicant, Savills (Planning Consultants) and the Kane Partnership were in attendance and the event allowed an opportunity for the community to provide feedback on the Proposed Development.

3.3. Public Event 2

3.3.1. The second public event was carried out on 30th October 2024 at the Dallas Village Hall.

3.3.2. Representatives of the Applicant, Savills and the Kane Partnership were available to engage with members of the public.

3.4. Public Events Summary

3.4.1. The in-person public consultation events provided an opportunity for the local community and all interested parties and stakeholders to view the information boards on the Proposed Development and to discuss any matters of interest or concern with the project team..

3.4.2. Feedback forms were made available at both events for completion by those who attended (Appendix 8). The feedback forms offered the opportunity to provide formal comments and could be returned on the day or via email to UKprojects@statkraft.com by 8 October 2024 for the first event and 13th November 2024 for the second event.

3.4.3. The invitations (Appendix 4) and project website (Appendix 9) clearly stated that any comments made throughout the pre-application consultation process were not representations to MC and an opportunity to make formal representations to MC would exist when a formal planning application was made.

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3.4.4. Leaflets were handed out to visitors, thanking them for attending the event and outlining further information on the Proposed Development (Appendix 7).

3.5. Project Website

3.5.1. A dedicated project website was set up by the Applicant (www.berryburn-extension.co.uk) (Appendix 9) where the same information presented at the two in-person events could be viewed. Formal comments could also be submitted to the Applicant via the website.

3.5.2. Throughout the consultation period of the first public event, there were 22 visitors to the website, whilst 24 people visited the website during the consultation period of the second event.

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4. Feedback from the Consultation

4.1. Public Event 1

4.1.1. The first event was held on 24th September 2024 at the Edinkillie Village Hall between 15:00 and 19:00 hours.

4.1.2. The following information boards were displayed to offer an explanation of the Proposed Development (see Appendix 5):

- Welcome (provided background on the Applicant and the purpose of the event);
- Background (a brief background on the Berry Burn Wind Farm and the Berry Burn Wind Farm Extension);
- Preparing for Construction (a brief explanation of the borrow pits and why they are proposed);
- Construction (explained the benefits of the borrow pits for limiting construction traffic);
- Local Investment (outlined the benefits of the wider project to local communities);
- Next Steps (outlined the next steps in the consultation and application process and provided the contact details for the Applicant and project team).
- Supporting STEM (Science, Technology, Engineering and Mathematics) Careers (outlined the support the Applicant is providing to local STEM Scholarships).

4.1.3. The first event was attended by 15 people.

4.1.4. Five feedback forms were received on the day of the exhibition and no feedback forms were received via the consultation website. No issues were raised that required changes to the Proposed Development. The comments received were as follows:

- “Excellent information and well explained”;
- “Being updated by project team with regular meetings taking place – any questions being adequately addressed. Thanks”; and
- “If the majority of construction materials come from site, would be better for environment.”

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4.1.5. One attendee discussed construction of the now operational Berry Burn Wind Farm and raised issues with construction traffic. While those matters are not relevant to the proposed borrow pit proposals, the Applicant noted that the procurement phase for a main contractor for the Berry Burn Wind Farm Extension was underway, that transport related matters would be addressed in a Construction Traffic Management Plan for that project and the Applicant committed to continuing to liaise with the local resident in the lead up to and during construction works of the consented wind farm.

4.2. Public Event 2

4.2.1. The second public consultation event was held on 30th October 2024 between 15:00 to 19:00 at the Dallas Village Hall.

4.2.2. Minor updates, including reference to the feedback received to date following the first event, were made to the information boards presented at the first event. No changes to the proposed site layout were required in response to the feedback received during the first event. Copies of the information boards for the second event are included in Appendix 6.

4.2.3. The second event was attended by 11 people (resulting in a total of 26 across both events). The comments made orally to the Applicant on the day were about construction traffic associated with construction of the consented wind farm; community benefit funds and co-ownership opportunities. While these comments are not related to the borrow pit proposals (which were the subject of the consultation events), the following responses were made by the Applicant:

4.2.4. Construction traffic on surrounding roads (concerns raised about ad-hoc deliveries, workers leaving the site, etc., and non-compliance with the traffic management plan) – Similar views, from the first event, were shared from several attendees on construction traffic during the construction of operational Berry Burn Wind Farm. While those matters are not relevant to the proposed borrow pit proposals, the Applicant noted that the procurement phase for a main contractor for the Berry Burn Wind Farm Extension was underway, that transport related matters would be addressed in a Construction Traffic Management Plan for that project and the Applicant committed to continuing to liaise with the local resident in the lead up to and during construction works of the consented wind farm. .

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- 4.2.5. Community benefit funds (several individuals attended to inquire about community funds) – follow up emails have been sent to the interested parties, indicating that further communication will take place in the new year when more information becomes available.
- 4.2.6. Co-ownership (a representative from Community Energy Moray attended) – A follow-up call has been scheduled to discuss this matter in more detail.
- 4.2.7. No feedback form was received via the consultation website after the second event.

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5. Conclusions

- 5.1.1. The Applicant has carried out the statutory consultation associated with the Proposed Development in accordance with the relevant Regulations and in agreement with MC. The PoAN was submitted and agreed with the MC in advance of the public events and the required newspaper adverts were published at the appropriate juncture in the process. Two public events were held, more than 14 days apart with advertisements posted at least 7 days in advance. As a result of the above, the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and the Town and Country Planning (Pre-Application Consultation) (Scotland) Amendment Regulations 2021 have been met.
- 5.1.2. A dedicated project website was also set up by the Applicant to allow any interested parties unable to attend the events in person an opportunity to review the proposals and make comments.
- 5.1.3. A total of 26 people attended the in-person consultation events which were held on 24th September and 30th October 2024 within the local area of Heldon and Finderne. Five feedback forms were returned at the events, and none were received via the consultation website from members of the community. In relative terms, given the site's rural location and when compared to events of this nature held elsewhere, this is considered to be a reasonable level of attendance, while the low number of feedback forms suggests that the Proposed Development is not of major concern to the community.
- 5.1.4. Comments made orally to the Applicant at the events were generally related to construction of the consented wind farm and not directly related to the borrow pit proposals. Nevertheless, the Applicant has responded to these matters and will continue to liaise with relevant parties through the construction phase of the consented wind farm.
- 5.1.5. No design changes have been made to the proposed borrow pits as a result of the consultation feedback.
- 5.1.6. The Applicant would like to place on record its thanks for the time taken by local residents to attend and engage. It is hoped that this working relationship has been appreciated by the residents of the local area in turn.

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Appendices

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Appendix 1 PoAN and Local Planning Authority Response

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Appendix 2 Newspaper Advert for First Public Event

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Appendix 3 Newspaper Adverts for Second Public Event

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Appendix 4 Invitations or Both Public Events

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Appendix 5 Presentation Panels for First Public Event

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Appendix 6 Presentation Panels for Second Public Event

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Appendix 7 Leaflets Provided at Both Public Events

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Appendix 8 Feedback Form Template

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Appendix 9 Extracts from Project Website

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