

**Past, Present and Future – Observations of New South Wales Local Government –  
Ongoing Reform and Regionalisation**

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## **1.0 Introduction**

Thank you for the opportunity to address the Annual Strategic Alliance of Councils Forum in Molong. I fondly recall a former President of Molong Shire, the late Geoff Smith, a highly respected local government leader, who was also a President of the New South Wales Shires’ Association in 1974 and 1975. At the time I was Shire Clerk at Merriwa. My Shire President, the late Brian Francis Hegarty MBE, succeeded Geoff as the Shires’ Association President from 1975 to 1977.

I describe today my experience of the local government setting and how it was conducted from the 1960s to the early 1990s to the passage of the 1993 Local Government Act. A perspective on an almost five decade period of direct involvement in the local government sector is provided. I then briefly discuss some of the local government issues since the Local Government Act 1993, and comment on local government structural reform initiatives based on my doctoral thesis findings. I consider regionalisation of local government and address questions concerning the Regional Development Australia Fund as a Chairperson of one of 14 New South Wales RDA Committees. Finally, I briefly comment on the current NSW Destination 2036 reform process.

## **2.0 Reflections on New South Wales Local Government 1964-1993**

During the 1970s and 1980s, there was sporadic discussion regarding the need to merge the two State Local Government Associations. That debate continues today and one wonders how close we might be to a successful merger of the Associations. My view is that a single association can more effectively represent and advocate the issues of the local government sector. Unfortunately, the primary impediment to a merger has always been the issue of city versus country representation and a perception that one association could not effectively address the diverse metropolitan, rural and regional issues.

The late local government luminary, Fred Larcombe, contributed a seminal trilogy of books on New South Wales local government from its commencement in the 1840s until the mid-1960s (Larcombe, 1978). However, little has since been written. Percy Allen, a co-author of

the 2006 New South Wales Local Government Sustainability Report (Allan, Darlison, & Gibbs, 2006), stated at the time of the Report release, that the available data sets only dated from the mid-1990s. The need for reliable academic literature regarding local government from the mid-1960s is self-evident.

In 1964, I commenced employment in local government as a junior clerk in an electricity/aerodrome county council authority, at a pay rate of 11 pounds four shillings a week. I was a cashier, selling the occasional washing machine and refrigerator. Any spare time was spent in calculating or checking electricity meter cards using a “besa block” sized prehistoric adding machine complete with handle.

At that time, New South Wales councils operated under the highly prescriptive 1919 Local Government Act. Furthermore, state government controlled and prescribed council activity by in excess of 100 Local Government Ordinances under the Act, such as for example building, town planning, cemeteries, impounding, elections, councillors (Ordinance 1), and staff matters (Ordinance 4).

When a female was appointed to a local government staff position, management made clear that if she married or fell pregnant she would be required to terminate her employment. Thankfully, those unenlightened work practices no longer exist. In the late 1960s, in the pre-computer era, at Bowral Municipal Council in the Southern Highlands as a graded clerk and later as Accountant, I was required to maintain hand written ledgers and registers. I vividly recall the late Deputy Town Clerk, who had been an employee at Bowral Council for over 40 years, peering over my shoulder to ensure that my writing was ‘copperplate’.

During the 1970s and 1980s, while employed as Shire Clerk to Merriwa Shire Council in the Upper Hunter Valley, much development progress was achieved and especially roads, bridges, water and sewerage infrastructure was extended. Until, in 1978, the introduction of rate pegging in New South Wales, the extent of achievable road and bridge construction was directly related to the council’s capacity to match NSW Department of Main Roads (DMR) grant allocations. For every two dollars provided by the DMR for main roads construction, the council was required to contribute one dollar, while for trunk roads the funding ratio was three DMR dollars to one. It regularly occurred that late in the financial year, Council would approach the DMR for an additional allocation because some councils were unable to expend grants by the 30th June deadline, at which time grants usually lapsed. Succeeding Merriwa Councils took the view that it would raise general rates as much as possible when primary production of wool, wheat and cattle was at higher levels because of favourable seasons or commodity prices. Conversely, in difficult seasons, such as during droughts, rates were

contained as much as possible. By increasing rates in this manner the Council established and usually maintained a pool of surplus working funds which it used to match additional DMR grants.

In the 1970s, the Commonwealth provided untied road grants known as Commonwealth Aid Roads (CAR) which were used by council to improve the major components of the secondary roads network which facilitated the movement of rural produce. In many respects the current Roads to Recovery Commonwealth funding is not dissimilar to the former CAR funding regime.

In 1976, a major advancement occurred in financing of local government when the Fraser Coalition government introduced the Personal Income Tax (PIT) Collections Act which hypothecated two per cent of all personal income tax collections to local government. This grant was untied and has been highly valued by local government. It is regrettable that in real terms the successor to PIT, the Financial Assistance Grants (FAGs) Act provides less than .7 of one per cent of PIT collections. Local government has unsuccessfully lobbied for a return to allocation of two per cent of personal income tax collections in real terms. Clearly, the financial wellbeing of Australian local government would be enhanced if FAG's allocations were still at two per cent. A down side of PIT and subsequently FAG's, was the loss of CAR grants which were subsumed into a roads component of those Commonwealth grants.

In 1978, the New South Wales government introduced rate pegging to local government and, with bi-partisan support this regime has remained in place. Rate pegging caused overdue 'belt tightening' and a necessary ongoing drive for greater efficiency and effectiveness. However, rate pegging also significantly impacted the ability of local government to effectively maintain and augment vital infrastructure. After 34 years, the concerns of inadequate asset management, inability to bridge the gap between depreciated asset values and replacement costs, and the matter of long term financial sustainability of councils, had their origins in the imposition of rate pegging.

In 1979, a major planning reform occurred with the introduction of the Environmental Planning and Assessment Act (EPA) and Regulations. This Act, which has served New South Wales well, is currently under review. The 1979 Act provided better structure and justification for planning decisions compared with the former Town Planning Ordinance and Interim Development Orders. The EPA Act provided standard heads of consideration for development assessment at Section 79C, and provided for Section 102 amendments to development applications as well as Section 82A reviews of previously refused applications. The Act also introduced section 94 developer contributions providing councils an additional

resource stream to augment community infrastructure. Furthermore, Section 94 contributions required developers and not rate payers to meet the cost of infrastructure required for new development. A negative aspect of the EPA Act has been the gradual proliferation of State Environmental Planning Policies (SEPPs), which many in local government regard as ‘legislation by stealth’, given that SEPPs are not enacted by legislation.

In a broader context the Hawke and Keating government economic liberalisation initiatives of the 1980s and 1990s impacted on local government. For example the floating of the dollar, the primacy of the market, privatisation of government instrumentalities, and compulsory competitive tendering, were factors impacting the efficiency and effectiveness of local government and service delivery capacity. Vast global changes were also occurring at this time, for example, the end of the Cold War period, the triumph of capitalism, the emergence of economic rationalism and market dominance, globalisation, the ‘one world’ economy, and new public management principles. Concurrently, rapid and continuous developments in information technology have enabled smarter, more effective communication, information exchange and record keeping.

### **3.0 Reflections on New South Wales Local Government since 1993**

I make some observations on New South Wales local government from the time of commencement of the 1993 Local Government Act. This legislation was a major turning point for the sector as it installed an Act which was far less prescriptive, removed over one hundred Ordinances under the former 1919 Act, and provided councils with general competency powers. Since 1993, Town and Shire clerks became known as General Managers, were placed on performance-placed contracts and became responsible for day to day management and council operational functions, while elected representatives were allocated the primary roles of policy setting and resources provision.

In the 1990s, local communities commenced to expect more from their councils in terms of quality of service provision and new infrastructure. Demands increased for greater council efficiency, transparency and accountability, while environmental sustainability became a mainstream concern and focus in local government. These factors have incrementally increased the pressure on local government for ongoing reform.

Much has been written about the ongoing fiscal problems of Australian local government. The Hawker Inquiry (2002) concluded that the main impact of fiscal stress had fallen on infrastructure maintenance and development. This conclusion was reinforced by the South Australian Sustainability Inquiry (South Australian Financial Sustainability Review Board, 2005); the 2006 NSW ‘Allan’ Report into the financial sustainability of NSW local

government (Allan, et al., 2006); the 2005 Size, Shape and Sustainability (SSS) Report of Queensland local government (Local Government Association of Queensland, 2005); the 2006 Western Australian Systemic Sustainability Study (WALGA, 2008) and the Price Waterhouse Coopers National Financial Sustainability Study of Local Government (2006). Evidence produced in these Reports indicated that large numbers of local councils were financially unsustainable and also highlighted the challenges of councils in regard to securing long-term financial sustainability, and the need for a much greater focus on ‘whole of life’ cost of public assets management and renewal.

In New South Wales, addressing these concerns have been impeded by the continuation of rate pegging. Furthermore, in most years the permissible rate increase limit has been less than the local government sector real cost increases. While the mechanism of Special Rate Variations (SRV) to redress financial woes has been available for some years, a State government requirement of SRV’s is to demonstrate community support and acceptance of the SRV application and the purpose(s) for which it is sought. Given that a long history exists of community antipathy towards rate income increases, it has been a particularly difficult task for local government to achieve sufficient community support for SRVs. Furthermore, at the council political level there has often been a lack of palatability of the option.

In recent years, the Commonwealth has increased financial support to Australian local government by direct funding measures and programs including Roads to Recovery, Community Infrastructure Grants, especially during the global financial crisis, and in 2011, through the Regional Development Australia Fund (Crean S, 2011). However, the recent ‘Pape’ high court decision clearly demonstrated the uncertainty surrounding direct Commonwealth funding to local government and highlighted the importance of achieving constitutional recognition of local government (Australian Local Government Association, 2009a), which may be as uncomplicated as adding the words ‘and local government’ to section 96A of the Commonwealth Constitution. However, it is well understood that securing passage of a referendum question is problematic (House of Representatives Standing Committee on Legal and Constitutional Affairs, 2009). A third referendum attempt to secure constitutional recognition for the sector will require unqualified bipartisan political support.

#### **4.0 Local Government Reform since the Early 1990s**

Structural reform, and specifically amalgamation of local councils, has been occurring with varying degrees of intensity in all Australian states and the Northern Territory since Federation, and has long been the preferred policy instrument of state governments (Marshall, 2008, p. 17). The pace of local government amalgamations has substantially accelerated since

the early 1990s, although reform has often been uneven and uncoordinated between jurisdictions. Moreover, local government reform has not attracted sufficient attention from scholars. Indeed, the local government sector has been described as the “poor cousin” of state and Commonwealth governments (Dollery, 2009b, pp. 137-138).

Over the last two decades, extensive programs of structural reform, centring on forced amalgamation, have been implemented. Dollery, Byrnes and Crase (2008, pp. 333-339) have described this approach as

Structural reform has always been the favoured Australian instrument for improving the efficiency of local government. This policy has flown against mounting evidence that amalgamation not only fails to reduce costs, but also generates significant unintended negative consequences.

The history of council amalgamations in each Australian state and territory has almost invariably involved a degree of state or territory government compulsion to impose council mergers. In most instances, structural reform has comprised forced amalgamation of local councils into significantly larger units often termed regional or “super” councils. Substantial ‘first wave’ council amalgamation occurred in Victoria, Tasmania and South Australia between 1993 and 1998. A ‘second wave’ commenced in 2004, with imposed mergers in New South Wales, followed by the ‘third wave’ and dramatic 2008 Queensland and Northern Territory reductions in council numbers. The ongoing Western Australian consolidation drive which commenced in 2009 and the 2001-12 renewed exploration of possible additional council mergers in Tasmania may well result in a ‘fourth wave’ of amalgamations.

In each jurisdiction, the structural reform process has included legislative enactments, partnership arrangements, resource sharing, strategic alliances and other arrangements, but has primarily consisted of imposed or voluntary amalgamation of local councils. According to Vince (1997, p. 151), amalgamation has been ‘a thread which runs through Australian local government history’, with the number of federally registered authorities decreasing between 1910 and 1991 from 1067 to 826 (Jones, 1993, p. 247), and in 2009 to 550 councils (Australian Local Government Association, 2009b). Since the early 1990s, nearly all Australian states have implemented reforms of the local government sector, while demonstrating a strong preference for imposed amalgamations as the usual reform method (Dollery, 2009a).

Usually amalgamations in Australian local government have been arbitrarily imposed by state or territory governments. Unfortunately there are no Australian examples where either governments or scholars have conducted detailed empirical case study analyses of the effects

of municipal mergers to determine whether net economic benefits have resulted, and whether the impacts on local democracy through reduced numbers of elected representatives have been adequately addressed. Using the case study investigation of Clarence Valley Council, my doctoral thesis considered the economic and democratic effects of a NSW council merger of four general purpose and two county councils, in order to inform the question of whether, from a public policy perspective, amalgamation can be a beneficial form of local government structural reform.

Writers such as Vince (1997, pp. 151-152) have suggested that through the process of local government structural reform in the form of amalgamations

[c]an easily degenerate to the level of crass simplicities about uniformity, centralist management, better delivery, lower unit cost larger scale and conformity; one size fits all. Most structural reform --- pursues economic efficiency at the cost of social effectiveness.

Amalgamations have almost invariably been imposed by structural reform measures instigated by state governments. Consequently, communities in the past two decades have experienced significant changes to the way in which they are governed at the local level.

Dollery and Robotti (2008, p. 94) contend that

An important consequence of this episode of structural reform has been a growing scepticism over the unsatisfactory economic, political and social outcomes of council consolidations in the local government community.

Until immediately following the March 2003 state government election, in New South Wales the motivation for structural reform and specifically amalgamation of councils was less evident than in Victoria, Tasmania and South Australia. However, immediately after the NSW election the re-elected Labor government reversed its 'no forced amalgamations' policy and a number of imposed forced council amalgamations quickly occurred, reducing the number of New South Wales councils from 177 to 152 by June 2004 (Department of Local Government NSW, 2006). These state imposed change processes focussed critical emphasis on the process and effects of this method of structural change in Australia.

The New South Wales structural reform process was critically examined in my research. In particular, the imposed amalgamation of councils that occurred despite the long-held New South Wales government policy of 'no forced amalgamation' was considered (Woods, 1999, pp. 1-3). A first-hand case study of an amalgamated NSW council was undertaken to examine the economic effects of a council merger, together with impacts on local democracy. I argue

that there is evidence of a commonality of approach across states and the Northern Territory which achieved reduced numbers of local government councils.

There has been a demonstrated net economic benefit from the CVC amalgamation, outweighing some identified disadvantages. Using CVC as the case study and a methodological approach based on 12 political motivational factors for local government amalgamation, each factor was empirically analysed.

The capacity to develop a consolidated strategic vision for the enlarged Clarence Valley LGA had seldom been achievable while the former smaller former councils remained. Since 2005, the diversity of local and national awards received by CVC is indicative of the wider range of initiatives and services that the consolidated entity became more capable of undertaking.

Empirical measurement was not possible to establish economies of scale produced by the CVC mergers. However, evidence was discovered of CVC's capacity to conduct larger scale, 'whole-of-Clarence Valley' strategic planning, which resulted in greater grants support from the NSW Commonwealth governments. Scale economies were exhibited through the larger council's ability to undertake major infrastructure projects over a substantially wider geographic area as well as, for example, 'whole of area' provision of services such as waste disposal, roads construction and parks and reserves maintenance.

Greater financial strength and stability of CVC was demonstrated by the steady improvement in its unrestricted cash ratio, which is a measure of the capacity to meet short term debts. While aggregate grants remained at less than pre-amalgamation levels for three years after the merger, largely because of the council's enhanced planning and infrastructure provision capacity, grant income is now at a considerably higher level, primarily as a consequence of government funding of a raft of strategic planning priorities and projects.

While acknowledging that a large proportion of the additional CVC expenditure was allocated to major infrastructure augmentation, and allowing for CPI since amalgamation, improved capacity has been demonstrated by the significant increase in the council's total expenditure after 30 June 2006, easily outstripping the expenditure of the combined former councils. Risk management, record keeping and processing of development applications were examples of where efficiency gains had been measured and achieved. CVC, as the largest employer in the Clarence Valley has delivered greater capacity to invigorate the local private sector and, through creating the Economic Development Unit, has developed more ability to stimulate and promote growth of the local economy.

In 2005, CVC introduced a differential rating system which addressed inequity in terms of rates paid by the various population centres. Ratepayers now contribute more equitably to



local public goods and services. Water and sewerage funds were merged, providing a substantial pool of funds and increased capacity to undertake augmentation works, including the \$80 million, 30,000 mega litre capacity Shannon Creek dam and five major sewer upgrade projects.

The merged Council secured the capacity to employ more specialised staff with ensuing benefits to the community. Fewer high level managers are now employed and specialist staff provides skills and expertise not previously available or affordable. Greater purchasing power has been another benefit of amalgamation as has the capacity for more efficient use of council plant and equipment. Given the reduction in councillor numbers from 33 to nine, a substantial decrease in representation costs was achieved. However, this represented a minor saving in terms of total annual budget.

A substantial increase in post-amalgamation administrative and governance costs is a major negative economic consequence of amalgamation, an outcome anticipated in the literature (Andrews R & Boyne G A, 2009). Closer scrutiny of the council's financial records would enable a more comprehensive assessment of the financial outcomes of the amalgamation. The weight of empirical evidence produced in respect to the CVC case study proves the conclusion that the economic benefits outweighed the fiscal disadvantages from this amalgamation.

## **5.0 Regionalisation of Local Government**

Early attempts to have councils engage and cooperate on a wider than local government area basis occurred in the early 1970s, when the Whitlam government introduced Regional Organisation of Councils (ROCs) under the stewardship of the Hon Tom Uren, Minister for Urban and Regional Development. Since that time, particularly in New South Wales and Western Australia there has been growth of some effective and financially well-developed ROCs. However, other ROCs operate on moderate budgets and usually address matters of regional concern and engage in cooperative resource sharing measures. ROC's have sometimes been suggested as an alternative option for local government units. However, the logical outcome would be less direct community representation and greater remoteness of governance from communities. It would also be unlikely that local councils would voluntarily transfer powers and functions to ROC's.

There is evidence of increased regionalisation of local councils and, particularly over the past two decades, there is evidence that regional cooperation for shared service provision and advocacy of local government issues has increased. Another factor in the growth of local government regionalisation has been the formation, in 2009, of the Regional Development

Australia Committee (RDA) structure. The establishment of 55 RDA Committees in all states and territories has effectively created an additional tier of government.

Funding arrangements for the Committees are short-term and their capacity for longevity should be considered doubtful given the present national political dynamics. Furthermore, whether there is a place for ROC's in addition to RDA Committees is open to conjecture. The 2010 Agreement between the Labor Party and the Independents to enable a functioning government probably increased the strength, relevance and independence of the RDA Committees. RDA Minister Crean often refers to Committees as being the conduit between communities and the three levels of Australian government. RDA Committees variably view themselves as a conduit to governments, a voice for their region, and a catalyst for regional collaboration and capacity building. The Commonwealth has nominated the priorities for RDA Committees and regional Australia as water; energy; infrastructure; food security; ICT infrastructure and broadband access; a low carbon, greenhouse friendly environment; and social inclusion

By June 2012, the Commonwealth has provided two rounds of Regional Development Australia funding (RDAF) with a commitment to further funding rounds to June 2015. Local government has been required to engage with RDA Committees in order to access funding for new infrastructure purposes. In early 2011, under the first funding round, a degree of regionalisation of councils occurred because of the requirement to demonstrate alignment to the Committee's Regional Plans, which had been endorsed by the Commonwealth. The role of RDA Committees was augmented with announcement of the second round of RDAF. After the first funding round, RDA committees were required to revise and streamline their plans. RDANR for example, introduced key economic, social and environmental goals and principles of what would constitute regional significance and how that might be measured.

Under RDAF round two, local government was required to address the refined regional plans and provide RDA Committees with Expressions of Interest (EOI) for funding of infrastructure projects. RDA Committees were required to prioritise EOIs and nominate a maximum of three project proposals for further consideration by the Commonwealth. Moreover, Committees were required to justify prioritised projects and provide information to proponents to assist with project proposal development or to explain why proposals had not been prioritised as one of the three EOI's to receive further consideration. These requirements considerably extended the role, authority and involvement of RDA committees in regard to their relationships and interaction with local government.

On 6<sup>th</sup> June 2012, the Hon Simon Crean MP announced 15 successful NSW projects in Round Two of RDAF and which were part of the \$200 million Commonwealth investment in the Round and part of the five-year regional funding program. A total of \$66.6 million was allocated to the NSW projects having a total value of \$243 million (Crean S, 2012). Projects included sporting precincts, community hubs, art galleries, freight and transport interchanges and a regional airport upgrade. Each project leveraged a range of funding opportunities and demonstrated clear long-term benefits, created regional employment and boosted economic development (Crean S, 2012).

The necessity for good working relationships between local government and RDA Committees has become of greater importance given the changed RDAF criteria. For example, local government is required to seek funding from a pool which is also available to not-for-profit organisations. Two of the Round Two NSW projects were awarded to not-for-profit organisations.

Given the acknowledgement in recent years, through several reports, of the major infrastructure backlog in Australian local government, and the actual Commonwealth allocations for the first two rounds of RDAF, has led to scepticism in the local government sector as to whether RDAF will become an effective means of addressing local government infrastructure needs. These factors and the requirement that local government competitively seek infrastructure funding through non-elected, Commonwealth and State government appointed RDA Committees, has heightened tensions between local government and regional governance. Moreover, it is suggested that the requirements have introduced a subtle, de facto regionalisation of councils as a consequence of the Commonwealth's regionalism and localism policy agenda. Given the RDAF has currency until June 2015, and that it is reasonable to presume that a future coalition government would continue this funding stream, perhaps with new or changed criteria, the tenure of RDA Committees would appear to be secure even without Commonwealth and State continuation of current partnership arrangements. The regionalisation process may well accelerate, particularly if further changes occur to the RDA funding regime.

## **6.0 Destination 2036 - New South Wales Local Government Reform Initiative**

In August 2011, NSW Council Mayors and General Managers met for two days with the Minister for Local Government the Hon Don Page MP at the Dubbo *Destination 2036* Workshop which the Minister had called to establish priorities for improving NSW local government and to commence a process for creating stronger and more viable local government sector. Participants recognised the need to reshape the structure, governance and

financing arrangements, functions and capacity of the sector to better enable councils to serve their communities in a challenging and rapidly changing environment (Division of Local Government NSW, 2011).

In September 2011, the *Destination 2036 Outcomes Report* was released for consultation. The Report described a draft vision for the future of NSW local government and suggested actions concerning council functions, structure, governance, finance and capacity (Elton Consulting, 2011b, pp. 53-57). In December 2011 draft *Destination 2036 Action Plan* was released for consultation with local government (Elton Consulting, 2011a). The Division of Local Government encouraged comment on proposed strategic directions including efficient and effective service delivery, quality governance, financial sustainability, appropriate structures, and strong relationships. The Plan suggested 36 'key activities' under the nominated strategic directions (Elton Consulting, 2011a, pp. 47-54).

On 20<sup>th</sup> March 2012 the Hon Don Page MP announced the establishment of a three member NSW Local Government Review Panel, its Terms of Reference, and the role of developing options to improve the strength and effectiveness of NSW local government (Page D, 2012). The Panel is required to investigate and identify options for governance models, structural arrangements and boundary changes while taking into consideration local government's ability to support the current and future needs of local communities; its ability to deliver services and infrastructure efficiently, effectively and in a timely manner; the financial sustainability of each local government area; the capacity for local representation and decision making; and barriers and incentives to encourage voluntary boundary changes (Local Government and Shires Association of NSW, 2012, p. 7). The Panel is required to report to the Minister within 14 months. It is evident that the Minister is intent on securing positive outcomes and further reform, including structural reform of the local government sector. The likely outcome is that NSW local government will be significantly transformed.

## **7.0 Conclusion**

This paper has provided an insider perspective and reflections on NSW local government over the 30 year period, and prior to the transformation of the sector by the introduction of the Local Government Act of 1993. Some of the major local government issues since this legislation are canvassed. Commentary has been offered on local government structural reform initiatives during the last two decades. Regionalisation of local government was considered together with the implications for local government of the Regional Development Australia Fund, from the perspective of a Chairperson of a Regional Development Australia Committee. Finally, the current NSW Destination 2036 reform process was considered.

While there remain some very significant matters which need to be addressed and managed by NSW local government, it is evident from past experience over several decades, and as considered in this paper, that the sector and the communities it represents and services, possesses strong resilience and will remain as an integral pillar of local communities. However, it is clear that there is a NSW State government policy agenda to deliver further reform of the sector. The progress of the Destination 2036 initiative and specifically of the engagement of the NSW Local Government Review Panel will be closely monitored by all those with an interest in NSW local government and local democracy.

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