



Our ref: DOC21-511017

Senders ref: PP-2021-2084

Mr Paul Amoateng  
Planning Officer  
Local Regional Planning  
Department of Planning, Industry and Environment

Via email [paul.amoateng@dpie.nsw.gov.au](mailto:paul.amoateng@dpie.nsw.gov.au); Planning Portal (CNR Ref-478)

12 July 2021

Dear Paul

**Subject: Planning Proposal (LEP20/0006) – Large Lot Residential Subdivision – 39 Currawang Drive Springvale (CNR Ref-478)**

Thank you for the CNR notification dated 21 June 2021 seeking comments on the proposed rezoning for the large lot residential subdivision proposed at 39 Currawongs Drive Springvale, Wagga Wagga. The following comments are provided by the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment.

BCD has statutory responsibilities relating to biodiversity (including threatened species, populations, ecological communities, or their habitats) and flooding. We have reviewed the documents supplied and note the following. Detailed comments are provided at **Attachment A**.

The planning proposal involves rezoning RU1 Primary Production land to R5 large lot residential land for a residential subdivision. Council has a duty to establish whether the proposal is likely to cause harm to threatened species consistent with Part 7 of the *Biodiversity Conservation Act 2016* (BC Act).

The evidence provided by the applicant does not meet the requirements of Part 7 of the BC Act. We recommend that Council assess all ancillary clearing anticipated by this proposal once, at the subdivision stage, rather than assessing 16 future development applications. Based on the preliminary assessment provided by the applicant, the proposal is likely to exceed the area clearing BOS threshold and involve a Biodiversity Development Assessment Report (BDAR).

We consider the inconsistent elements of the planning proposal (Ministerial Directions 4.3 – Flood Prone Land) to be of minor significance. However, we recommend Council ensures the subdivision design is compatible with flood risks and does not exacerbate them. The draft Wagga Wagga Major Overland Flow Floodplain Risk Management Study and Plan is a reliable guide.

If you have any questions about this advice, please contact Marcus Wright, Senior Conservation Planning Officer, via [rog.southwest@environment.nsw.gov.au](mailto:rog.southwest@environment.nsw.gov.au) or 02 6983 4917.

Yours sincerely

Miranda Kerr  
**Acting Senior Team Leader, Planning  
South West Branch  
Biodiversity and Conservation Division  
Department of Planning, Industry and Environment**

ATTACHMENT A      Detailed comment on Planning Proposal – Large Lot Residential Subdivision, 39 Currawang Drive Springvale (Ref-478)

## **ATTACHMENT A Detailed comment on Planning Proposal (LEP20/0006) – Large Lot Residential Subdivision 39 Currawang Drive Springvale (Ref-478)**

### Biodiversity

#### **Potential impact on threatened species and their habitats**

Council has a duty to determine the impact on threatened species and their habitats according to Part 7 of the *Biodiversity Conservation Act 2016* (BC Act). The *Initial Biodiversity Assessment* (NGH 2020) does not demonstrate whether the proposal exceeds the Biodiversity Offset Scheme entry thresholds as required by Part 7 of the BC Act. However, it does provide an important basis for more detailed assessment including a Biodiversity Development Assessment Report (BDAR).

Council has a duty to consider an assessment that is consistent with Part 7 of the BC Act. This includes evidence that the BOS thresholds are not exceeded and a Test of Significance consistent with section 7.3 of the BC Act.

Two proposed designs ('Original' and 'Option G') have been assessed in the Initial Biodiversity Assessment by NGH Consulting dated July 2020 (refer to Appendix C Planning Proposal). Option G has been identified by NGH Consulting as the design likely to meet requirements.

However, Option G has the highest potential impact on biodiversity values and should be used as the worst-case scenario to assess likely impacts. Clearing that is ancillary to developments on building envelopes, access (including upgrades of Dunns Road), services and asset protection zones is anticipated because of the proposal. All anticipated and ancillary clearing should be included in the assessment.

We note the following:

- The subject land includes significant areas of Box Gum Woodland, a critically endangered ecological community (CEEC) in NSW and potentially meeting the listing criteria under Commonwealth legislation.
- The subject land includes a vegetated riparian corridor.
- The proposed lot layout plan for Option G is provided in Figure 5-2 and within the Bushfire Assessment Report (refer to Appendix F Planning Proposal). Lots 4 and 9 appear to be highly constrained with limited opportunities for development within the lot parcel based on the proposed layout.
- The assessment provided does not indicate the extent of native vegetation.

We advise Council to seek evidence about how retained vegetation will be managed and maintained. Option G identifies multiple 2m wide clearing areas for boundary fences (including intersecting boundaries) along the narrow 20-30m wide riparian corridor strip. The indirect impacts of the proposed clearing and future management of these retained areas must be assessed to ensure the long-term viability of this habitat and riparian corridor.

The *Wagga Wagga Local Environmental Plan 2010* (LEP) establishes maps of terrestrial biodiversity, riparian land and waterways sensitive areas. We note that the subject land is located wholly within that mapped land. We encourage Council to consider any potential adverse impacts of the proposed development on terrestrial, aquatic, and riparian habitats and ecosystems in accordance with Clause 7.3 and 7.5 of the Wagga Wagga LEP prior to granting development consent. Any potential impacts should be identified and adequately considered in the planning proposal stage. The development should be designed to protect or improve biodiversity values identified within the subject land.

**Recommended actions:**

1. The planning proposal must consider all ancillary development and indirect impacts on threatened species habitat according to Part 7 of the BC Act.
2. Protection and management of retained vegetation must be adequately considered in the planning proposal to maintain and protect biodiversity sensitive areas and ensure the long-term viability of habitats and the riparian corridor.
3. Any potential adverse impacts of the proposal on terrestrial, aquatic and riparian habitats and ecosystems must be identified and adequately considered at the planning proposal stage.

**Entry into the Biodiversity Offset Scheme (BOS)**

Council may not consent to the proposal without being satisfied that no harm to threatened species will occur. We do not consider the evidence provided by the applicant provides that assurance.

The planning proposal identifies that the land is not on the Biodiversity Values Map, but no evidence has been provided. All the anticipated clearing should be included in a Biodiversity Values Map and Thresholds (BMAT) report attached to the planning proposal.

We note that the initial biodiversity assessment identifies the potential for 32 threatened species likely to occur on site. No targeted surveys or further assessment has been conducted as part of the initial assessment.

The proposal identifies Option G as the proposed design likely to meet design requirements. This option has the highest potential impact on biodiversity values with clearing of 0.64 ha of native vegetation including impacts to riparian vegetation, threatened ecological communities, and habitat to threatened species. This clearing of native vegetation exceeds the area clearing BOS threshold of 0.5ha.

The extent of native vegetation on the subject land has not been established. We note that areas of land likely to be cleared have not been included in the assessment because they are zoned RU1 Primary Production. However, the clearing provisions of the LLS Act do not apply to this proposal. Section 60Q(2)a and 60S(4)a establish that the clearing provisions of the LLS Act are subordinate to the development application including the assessment under Part 7 of the BC Act regardless of zoning.

Based on Option G we anticipate that the proposal will involve clearing that exceeds the BOS threshold. The applicant should provide a Biodiversity Development Assessment Report (BDAR) at the planning proposal stage to assess the impact, including measures to avoid and mitigate the likely harm to threatened species and their habitats.

Alternatively, Council has a duty to assess the clearing ancillary to each of the anticipated development applications (DAs) in accordance with Part 7 of the BC Act. In this way, every subsequent DA for the subdivision must be accompanied by a BMAT report and a Test of Significance, and potentially a BDAR.

We recommend that Council assess the clearing anticipated as a result of this proposal once, at this subdivision stage, rather than assessing the clearing anticipated in the future DA for each lot. This will provide certainty to the developer and prospective purchasers at the early stages of the proposed development. It will also allow assessment of the cumulative impacts on biodiversity values, particularly within the riparian lands.

**Recommended action:**

4. The applicant should provide a Biodiversity Development Assessment Report (BDAR) at the planning proposal stage to assess the full impact of the proposed large lot residential subdivision, including measures to avoid and mitigate the likely harm to threatened species and their habitats within the subject land.

## Offsetting with local strategic measures

We encourage Council and the applicant to investigate strategic measures that mitigate the anticipated harm to threatened species. The subject land has the potential to improve habitat function to an extent that may mitigate the anticipated impacts on threatened species and habitats. In that case the proposal may be certified under Part 8 of the BC Act. A Biodiversity Certification Assessment Report (BCAR) will demonstrate that potential. The benefit of a BCAR is that any impact on threatened species is mitigated without the need for dealing in BOS credits or paying into the Biodiversity Conservation Fund. Local populations and habitats are also preserved in situ.

Council may achieve similar benefit by establishing planning controls and permits to protect vegetation. Examples include establishing environmental zones on the subject land, positive covenants over land that include threatened species habitats, and specific controls be established in the Wagga Wagga DCP to limit clearing on the subject land.

If approved, we recommend Council condition the 16 new titles to maintain and enhance biodiversity values, including protection of the retained vegetation (CEEC and riparian vegetation), cat curfews and requiring local native species be used in all landscaping and street plantings.

### Recommended action:

5. Investigate local strategic measures as part of the proposal including a BCAR
6. Council condition new titles to protect biodiversity if approved.

### Flooding

The primary objective of the NSW Government's Flood Prone Land Policy is to reduce the impact of flooding on owners and occupiers of flood prone land, therefore reducing private and public losses resulting from floods. The most appropriate method to assess the development of flood prone land is through the floodplain risk management process, which is detailed in the NSW Floodplain Development Manual 2005.

A primary objective of section 9.1 of the *Environmental Planning and Assessment Act 1979* (Direction 4.3: Flood Prone Land) is to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. Council has been progressing a Floodplain Risk Management Program through various studies and plans covering flood prone areas across the Wagga Wagga local government area. Most notably and relevant to this proposal is the Wagga Wagga Major Overland Flow Floodplain Risk Management Study and Plan (WWMOF FRMS&P). We understand that public exhibition of the report is due for finalisation and Council is likely to adopt the plan in the coming weeks.

This proposal lies partially within the area covered by the WWMOF FRMS&P, at the very western extent of the Lake Albert hydraulic model extent. Ideally the flood risks for the entire site would be defined. Despite that, the flood mapping demonstrates the eastern sections of the site are prone to flooding along confined drainage lines in the 1% AEP design flood event. It is logical to assume that trend extends to the unmapped western sections.

The draft WWMOF FRMS&P report establishes a Flood Planning Area (FPA) within the proposal site. That FPA aligns with the defined drainage path and is quite confined. That alignment triggers the Ministerial Direction related to Flood Prone Land (Section 9.1, Direction 4.3). As such the applicant must justify how the inconsistent elements of the planning proposal are of minor significance, especially given that the WWMOF FRMS&P report is yet to be finalised or adopted by Council.

The application does not list the Ministerial Direction (4.3) as being applicable. However, the gateway determination report does correctly identify the issue in Tables 4 & 6. It states that although the subject land is affected by overland flow flooding, Council's assessment report indicates that the risk can be addressed through subdivision design and development. This is supported by the draft WWMOF FRMS&P report that states the new development in these major overland flow areas will need to be managed to ensure that the existing flow paths are not obstructed, and that the new development is sited and constructed in such a way that is compatible with its flood risk.

For those reasons the design of the subdivision needs to be compatible with the flood risks and not exacerbate flooding downstream. Measures include the retention of riparian corridors, buffer zones around known flow paths, and land use zoning that limits development in flow paths and riparian corridors. As such we consider the elements of the application that are inconsistent with Ministerial Direction 4.3 (Flood Prone Land) to be of minor significance. We have no objections to the proposal from a flooding perspective.

Council is encouraged to extend the area covered by flood studies when future development proposals are outside existing studies.



OUT21/8451

Crystal Atkinson  
Senior Strategic Planner  
Wagga Wagga City Council  
PO Box 20  
Wagga Wagga NSW 2650

Dear Crystal

**Planning Proposal - LEP20-0006 - Springvale**

Thank you for your referral of 21 June 2021 with regard to providing comment on the planning proposal LEP20-0006 - Springvale. The NSW Department of Primary Industries (DPI) Agriculture is committed to the protection and growth of agricultural industries, and the land and resources upon which these industries depend.

DPI Agriculture notes that this land is located outside identified urban growth areas in the Wagga Wagga Spatial Plan and Local Strategic Planning Statement, and that there are no land use strategies providing guidance on non-agricultural land use developments on rural land.

We support strategic led planning for agricultural areas and are prepared to contribute to the development of relevant strategies for your council area. Where non agricultural developments are proposed in the rural landscape, potential land use conflicts tend to undermine industry confidence and investment.

Should you require clarification on any of the information contained in this response, please contact Lilian Parker, Agricultural Land Use Planning, at [landuse.ag@dpi.nsw.gov.au](mailto:landuse.ag@dpi.nsw.gov.au)

Yours sincerely

A handwritten signature in black ink that reads 'T Prentice'.

24/6/21

**Tamara Prentice**  
**Manager Agricultural Land Use Planning**



## NSW RURAL FIRE SERVICE

Wagga Wagga City Council  
PO Box 20  
WAGGA WAGGA NSW 2650

Your reference: (REF-479) LEP20.0006  
Our reference: SPI20210621000090

**ATTENTION:** Crystal Atkinson

Date: Monday 23 August 2021

Dear Sir/Madam,

### Strategic Planning Instrument

#### LEP Amendment - Planning Proposal

- Amend land zoning from RU1 - Primary Production to R5 - Large Lot Residential and reduce minimum lot size from 200 ha to 2 ha - 39 Currawang Drive Springvale
- Reduce minimum lot size for various lots east and south of 39 Currawang Drive from 8 ha to 2 ha

I refer to your correspondence dated 21/06/2021 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

The NSW RFS has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 9.1 of the *Environmental Planning and Assessment Act 1979*.

For the purpose of clarity, the following comments are separated into two parts.

#### **39 Currawang Drive Springdale - Rezone from RU1 to R5 and reduce minimum lot size from 200ha to 2ha**

Based upon an assessment of the information provided, NSW RFS generally raises no objections to the progression of the planning proposal subject to a requirement that the future subdivision of the land complies with Chapter 5 *Planning for Bush Fire Protection 2019*.

At the strategic planning stage, Council should be satisfied that future development of the land can comply with the acceptable solutions of *Planning for Bush Fire Protection 2019*. The following information relates to the concept subdivision plans provided in the bush fire assessment report:

- Full perimeter access roads are not provided.
  - PBP 19 Table 5.3b states 'perimeter roads are provided for residential subdivisions of three or more allotments'. It should be noted the vegetation beyond the northern perimeter currently presents as a grassland hazard.
- Internal road network presents two no through roads.

#### Postal address

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

#### Street address

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

- PBP 19 Table 5.3 states 'all roads are through roads' and 'subdivisions of three or more allotments have more than one access in and out of the development'.
- Consideration should be given to the regeneration of vegetation within the riparian area traversing the lot. Building envelopes are to be adequately separated from the riparian zone to provide an asset protection zone in accordance with Table A1.12.3 of *Planning for Bush Fire Protection 2019*.

**Reduce minimum lot size of land east of 39 Currawang Drive from 8.0ha to 2.0ha**

Based upon an assessment of the information provided, NSW RFS generally raises no objections to the proposal subject to the following:

- Where land has potential for subdivision following the reduction to the MLS, and is considered bush fire prone, compliance with chapter 5 of PBP 19 is required with future development proposals.

For any queries regarding this correspondence, please contact Anna Jones on 1300 NSW RFS.

Yours sincerely,

Martha Dotter  
**Supervisor Development Assessment & Plan  
Built & Natural Environment**



## Atkinson, Crystal

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**From:** Connect Wagga <notifications@engagementhq.com>  
**Sent:** Thursday, 12 August 2021 12:47 PM  
**To:** Atkinson, Crystal  
**Subject:** Anonymous User completed Public Exhibition Submission - Springvale

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Anonymous User just submitted the survey 'Public Exhibition Submission - Springvale' with the responses below on Springvale minimum lot size and zoning.

### Name

[REDACTED]

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### Address

[REDACTED]

---

### Email

[REDACTED]

---

### Contact number

[REDACTED]

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### Submission / Comments

As we live opposite this proposed Re zoning/subdivision we are accurately aware of the challenging topography and waterways that are encompassed. It would seem that larger lot sizes than 2 ha would be more environmentally and sustainably suitable for this proposed area. Please give this recommendation you consideration. Yours sincerely [REDACTED]

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**Would you like to be added to an email update list for this project?**

Yes

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## Atkinson, Crystal

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**From:** Connect Wagga <notifications@engagementhq.com>  
**Sent:** Tuesday, 17 August 2021 2:07 PM  
**To:** Atkinson, Crystal  
**Subject:** Anonymous User completed Public Exhibition Submission - Springvale

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Anonymous User just submitted the survey 'Public Exhibition Submission - Springvale' with the responses below on Springvale minimum lot size and zoning.

### Name

[REDACTED]

---

### Address

[REDACTED]

---

### Email

[REDACTED]

---

### Contact number

[REDACTED]

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### Submission / Comments

The submission is in relation to lep20/0006. I currently own the property located at [REDACTED] which in the submission is to be changed from RU1 to R5 land zoning. I object to the proposal on a number of issues as follows. Firstly I purchased the land out here for the space and not to be built out. Secondly I would be unable to subdivide in any case as the location of my house on the block would not allow my current property to be split into a second block of the proposed size. All that would happen as a result of this submission is that my land zone would change from RU1 to R5 which would mean I pay more rates for no benefit. I submit there is no need to change anything to do with my current land. I have consulted with my neighbours and this is the general consensus. I have encouraged my neighbours to also write submissions outlining the issues I have identified.

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**Would you like to be added to an email update list for this project?**

Yes

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**From:** [Connect Wagga](#)  
**To:** [Atkinson, Crystal](#)  
**Subject:** Anonymous User completed Public Exhibition Submission - Springvale  
**Date:** Tuesday, 7 September 2021 12:17:53 PM

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Anonymous User just submitted the survey 'Public Exhibition Submission - Springvale' with the responses below on Springvale minimum lot size and zoning.

**Name**

[REDACTED]

---

**Address**

[REDACTED]

---

**Email**

[REDACTED]

---

**Contact number**

[REDACTED]

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**Submission / Comments**

I am opposed to the reduction in lot size in this proposal. The roads are not currently built to a standard to carry higher density traffic in this area. Also, in heavy rainfall periods, run off is already an issue where water runs causing erosion, increasing construction and reducing vegetation will only add to this environmental impact. I understand the need for development and housing in the region, but I think there would be more suitable alternatives in nearby areas. Thank you for consulting the community.

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**Would you like to be added to an email update list for this project?**

Yes

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**From:** [Connect Wagga](#)  
**To:** [Atkinson, Crystal](#)  
**Subject:** Anonymous User completed Public Exhibition Submission - Springvale  
**Date:** Monday, 20 September 2021 3:54:49 PM

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Anonymous User just submitted the survey 'Public Exhibition Submission - Springvale' with the responses below on Springvale minimum lot size and zoning.

**Name**

[REDACTED]

---

**Address**

[REDACTED]

---

**Email**

[REDACTED]

---

**Contact number**

[REDACTED]

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**Submission / Comments**

I oppose this redevelopment. I have petitioned to WWCC to close off all access to Dunns road to excessive traffic and unnecessary heavy vehicle traffic to which WWCC have ignored and refused to attend to. I have been advised by City council employees WWCC are intending on creating a substantial vehicle increase on Dunns road and as a result my family are at risk caused by the influx of traffic and safety to my family correlates to all who are involved within this application. Given the associations of WWCC and civil contractors who continue to disregard the 4.5t weight limit on the road, this submission will substantially increase the risk of heavy vehicles on this road and as such I am opposing the rezoning. I oppose this direct safety risk to my home and my family. Near misses are a constant, as recent as last weekend a heavy vehicle supplying road base to a property located on the Dirt section on Dunns road, that conducted approximately 10 trips, near collided with small vehicles three times. There is a set of skid marks located at the corner of Dunns road and Currawang drive where the heavy vehicle was travelling faster than the posted speed limit and failed to see a turning vehicle. As happened almost daily with other motorists who use Dunns road as their own personal race track, I hazard a guess residents of Uranquinty and the Rock, given the same offending vehicles that are witnessed driving the way they do. The speed limit, size of road is not supportive of the increased traffic flow and WWCC REFUSE to lower the speed limit to 40km/h. even with the proposed waste of money that you intend on spending on Dunns road does not compensate

for increased traffic and the excessive speeds Dunns road promotes. Until safety measures are put in place, such as dramatically lowering the speed limit or closing the road entirely and NSW Police are accepting of tasking to this area, ALL development requests will be directly opposed and legal representation will be sought should the safety concern be disregarded. If my family or any other Springavle resident gets injured as a result of this risk that has now been made known to you on three occasions, then it will be sought for legal advice. You can not disregard community safety for your own bank budget. If I brought this safety risk to your suburbs you would have the media all over it and a direct phone call to police for enforcement. But because lots of money is being set to exchange hands, you ignore this concern and the DIRECT RISK to the community. I purchased my land under consultation with WWCC staff at the WWCC Chambers in Baylis street, who informed me Dunns road was being closed during my consultation to purchase my land. I moved here for the serenity, not to watch vehicles travel over the speed limit and drive in breach of road laws. Police refuse to police the area, RMS inspectors refuse to enforce heavy vehicles and submissions have been made to TfNSW to conduct mobile speed camera patrols in the area. As informed by WWCC when I raised the safety issue last time, I contacted the authorities as instructed by WWCC, and all the government agencies are telling me that Dunns road is a WWCC issue, not theirs. WWCC are directly responsible for lowering the safety risks associated with my rates. I have informed WWCC of the risk, and ZERO attempts have been made. Zero safety measures have been implemented and ZERO will be made in order to make money at the expense of my Rates. If you won't attend to the safety risk, then lower my rates substantially because you are saying that you won't serve your office, and protect the community. so If you refuse to lower the speed and traffic, then lower my rates. Because I purchased this land for a rural lifestyle, as promised by the developer and yourselves, not to live on a sub artery highway. So incase you missed the opposed response. I hear-by formerly oppose any and all submissions due to safety of the community. Until the closure of Dunns road or the lowering of speed to 40 km/h then all submissions are formerly rejected and opposed. And the date of this submission is because the letter was only delivered into my mailbox last week. And due to the Corona virus, I am only in a position to apply now.

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**Would you like to be added to an email update list for this project?**

Yes

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