

PLANNING PROPOSAL

ITEM NUMBER	5.1
SUBJECT	Post Exhibition - Finalisation of the Riverside Theatre Planning Proposal following consideration of submissions received during the public exhibition period.
REFERENCE	F2022/01255 -
APPLICANT/S	City of Parramatta Council
OWNERS	City of Parramatta Council
REPORT OF	Senior Project Officer

PURPOSE

To seek the Parramatta Local Planning Panel's (LPP) advice on the outcomes of the public exhibition of the Planning Proposal for land at 353A-353C Church Street and part of 351 Church Street, Parramatta (the Riverside Theatre Site).

RECOMMENDATION

That the Parramatta Local Planning Panel supports the following Council Officer recommendation in its advice to Council:

- (a) **That** Council note that a total number of 31 submissions were made in response to the public exhibition of the Planning Proposal which are summarised at **Attachment 1**.
- (b) **That** Council approve the Planning Proposal at **Attachment 2** for the purposes of it being forwarded to the Department of Planning and Environment (DPE) for finalisation.
- (c) **Further, that** Council delegate authority to the Chief Executive Officer to correct any minor anomalies of a non-policy and administrative nature that may arise during the plan finalisation process, relating to the Planning Proposal.

REASON FOR REFERRAL

At its meeting of 14 May 2018, Council resolved the following in relation to Planning Proposals after public exhibition:

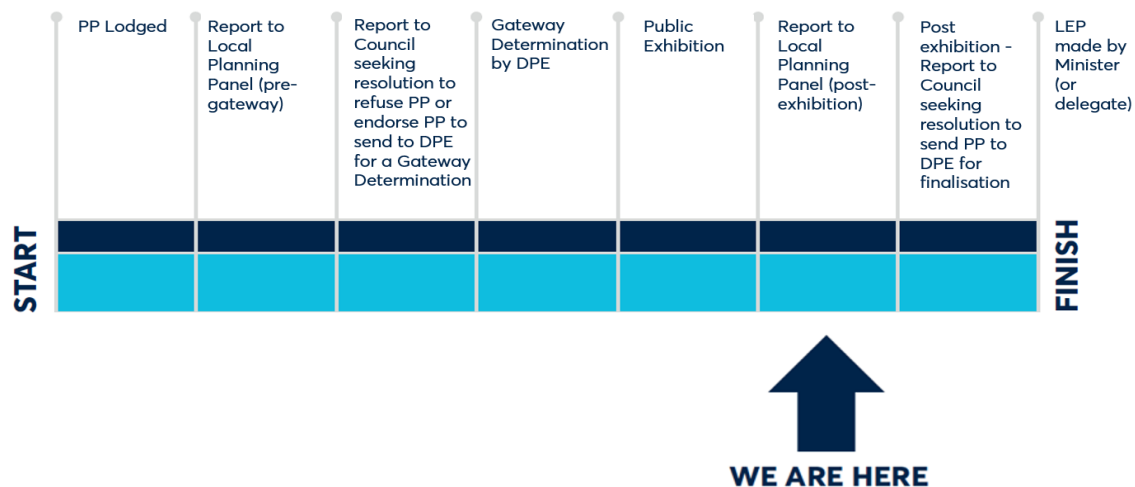
(b) That in addition to the requirements of the Local Planning Panels Direction, planning proposals be referred to the City of Parramatta Council Local Planning Panel after exhibition where a request for amendment to the Planning Proposal has been received.

The Planning Proposal is referred to the LPP as some submissions received supported the progression of the theatre but raised planning related concerns (i.e. carparking, flooding and visual impacts) for Council to consider in the context of the subject site. These submissions are detailed in this report and **Attachment 1**.

The submissions raised matters that Council Officers consider to be a potential request to amend the Planning Proposal. Therefore, in line with the 14 May 2018 resolution of Council, the outcome of the public exhibition process is being referred to the LPP for consideration.

PLANNING PROPOSAL TIMELINE

The timeline below identifies the Riverside Theatre Planning Proposal has now progressed to the finalisation stage.



SUMMARY

1. The redevelopment of the Riverside Theatre has been a key cultural project under consideration by Council since 2018. Council recently approved the Riverside Theatre redevelopment strategic business case and allocated funding to secure the next phase of the project at its meeting of 12 December 2022. A copy of the meeting minute is provided at **Attachment 3**.
2. Following consideration by the LPP on 18 August 2022, Council at its meeting of 26 September 2022 endorsed a Planning Proposal to implement the necessary planning controls to allow the timely progression and redevelopment of the Riverside Theatre and forwarded it to the Department of Planning and Environment (DPE) for a Gateway Determination.
3. A Gateway Determination was issued on 16 November 2022 advising the Planning Proposal should proceed, subject to conditions which included public exhibition for 20 days and some minor refinements to reflect the intended outcome of the Planning Proposal. Further details are outlined under the heading *Gateway Determination* later in this report.
4. The Planning Proposal was publicly exhibited from 14 December 2022 to 2 February 2023. During the exhibition, Council received a total number of 31 submissions. Of which, 30 submissions were from local residents and 1 was from public agency.
5. Some submissions commented on the detailed design and programming of the theatre which is out of scope of the Planning Proposal. These details would be the subject of public exhibition as part of the future Development approval process which is likely to be a State Significant Development process.
6. Council Officers have reviewed and considered the submissions received. It is proposed to progress the Planning Proposal with no further amendments.

7. This report is consistent with the LPP report and advice of 18 August 2022. As outlined above, the Planning Proposal is being referred to the LPP as some submissions are considered to have made a request to amend the Planning Proposal. A copy of the LPP report and advice is provided at **Attachment 4**.

SITE DESCRIPTION

8. The Planning Proposal applies to the land at 353A-353C Church Street (Lot 2 DP 740382) and part of 351 Church Street, Parramatta (Lot 1 DP 740382) (the site). The site has an approximate area of 7,000sqm (see **Figure 1**). The site is the location of the Riverside Theatre, which is owned and operated by the City of Parramatta Council (Council). Further information on the site is available in the Planning Proposal contained in **Attachment 2**.

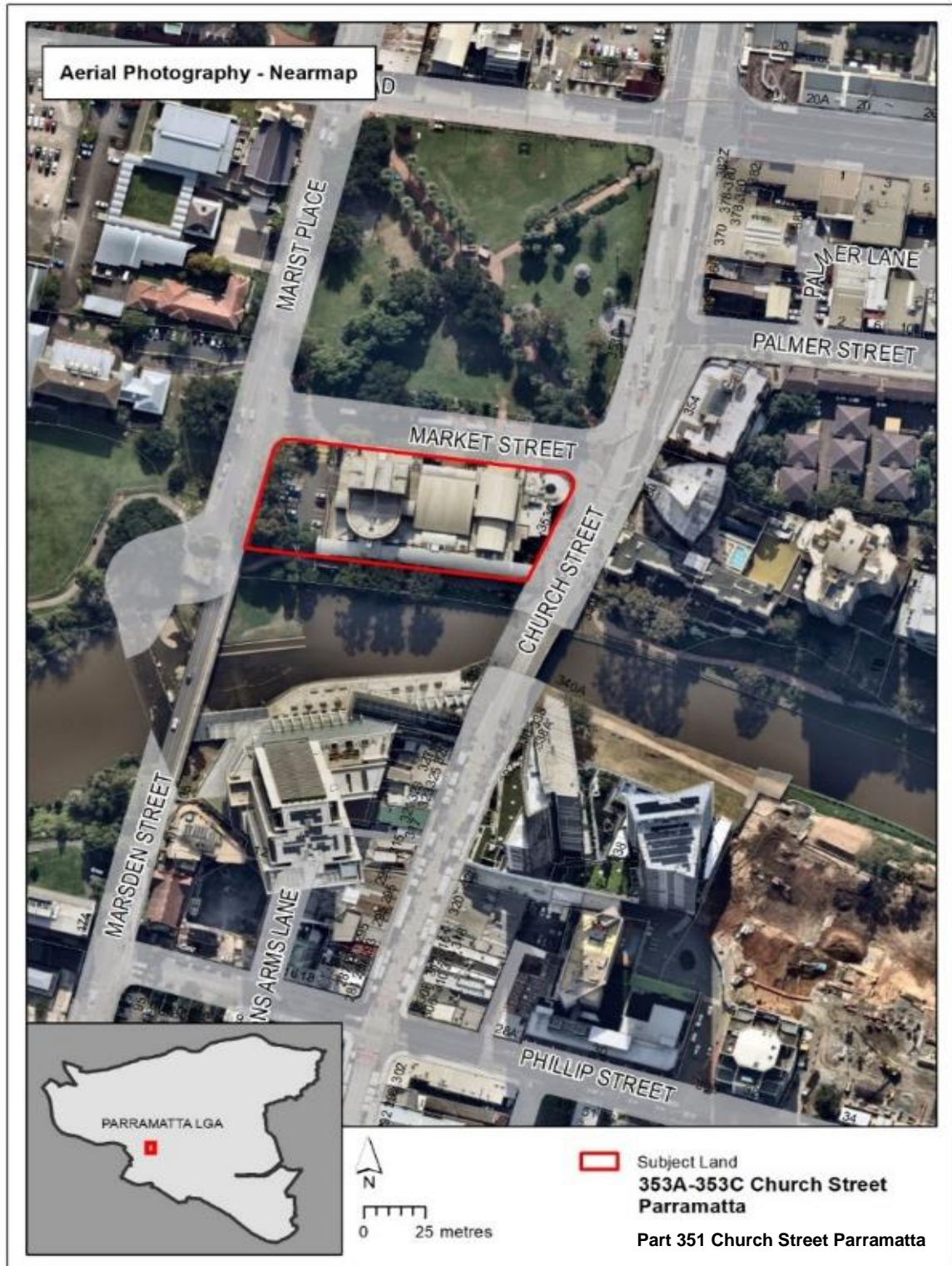


Figure 1 – Site subject of the Planning Proposal

DESCRIPTION OF PLANNING PROPOSAL

9. The Planning Proposal (**Attachment 2**) seeks the following amendments to the Parramatta Local Environmental Plan 2011 (PLEP):
 - a. Increase the Maximum Height of Building (HOB) from 15m to 28m.

- b. Introduce a Site-Specific Clause that:
- i. prevents new development generating any additional overshadowing to the southern side of the Parramatta River Foreshore between 12pm and 2pm;
 - ii. requires active street frontages;
 - iii. specifies a maximum Design Excellence bonus of 15% (included as a result of the Gateway Determination conditions).
10. No changes are proposed to the land use zoning or FSR controls.
11. **Table 1** compares the existing planning controls, proposed controls under the Parramatta CBD Planning Proposal (CBD PP) as endorsed by Council, the proposed controls within the subject Planning Proposal, and the existing building for reference. Further details on the site's context, strategic positioning within the Parramatta CBD, and other planning controls are contained within the Planning Proposal found in **Attachment 2**.

Control	PLEP 2011 (existing controls)	Council adopted CBD PP	Planning Proposal	Existing building
Zoning	B4 Mixed Use	B4 Mixed Use	B4 Mixed Use	B4 Mixed Use
Height	15m	Height not nominated – solar access control would allow heights of 50-60m on parts of the site.	28m	25m
FSR	3:1	3:1	3:1	Unknown
Design Excellence Bonus	25%	15%	15%	n/a

Table 1 – Comparison of existing and proposed controls

BACKGROUND

Redevelopment of the Riverside Theatre

12. The redevelopment of the Riverside Theatre to deliver a modernised and expanded performance space is an important infrastructure priority reflected in Council's cultural plan titled 'Culture and Our City – A Cultural Plan for Parramatta's CBD 2017-2022' (Cultural Plan).
13. At its meeting of 15 June 2021, Council endorsed the Parramatta CBD Planning Proposal (CBD PP) that sought to increase the height of building control for the Riverside Theatre site (among a number of things). This change would enable the redevelopment of the theatre in line with Council's vision and the Cultural Plan.
14. Council has progressed with the preparation of the concept design to redevelop the theatre consistent with the planning controls within the Council endorsed

CBD PP. **Attachment 2** includes further details on the indicative building envelopes of the concept design.

15. However, the Department of Planning and Environment (DPE) deferred the area north of the river from the CBD PP during its finalisation process and retained the current planning controls for this site. The current height control does not enable the redevelopment of the site consistent with the concept reference design.
16. As a result, this Planning Proposal was prepared to implement the necessary height control to allow for the concept design and redevelopment project to progress.
17. At its meeting of 12 December 2022, Council approved the Riverside Theatre redevelopment business case and allocated funding to secure the next phase of the project, including a design excellence competition for the project. A copy of the Council resolution is provided at **Attachment 3**.
18. Whilst Council has approved the detailed business case and project plan, this Planning Proposal process is separate and is needed to ensure the necessary planning controls are implemented to allow for the redevelopment project for the Riverside Theatre to progress.

Previous LPP Advice and Council Resolution

19. On 18 August 2022, the LPP considered the Planning Proposal and supported the Council Officer's recommendation to progress the Planning Proposal except in relation to the request for no public exhibition process (see LPP report at **Attachment 4** for more detail).
20. Council Officers recommended to the LPP that no public exhibition process be required in order to support the efficient procession of the Planning Proposal, given the Council endorsed CBD Planning Proposal included the site and publicly exhibited controls that sought a greater building height than the subject Planning Proposal. However, contrary to the Council Officer recommendation, the LPP recommended that the Planning Proposal should be publicly exhibited in the standard manner. Further details of LPP report and advice is available at **Attachment 4**.
21. At its meeting of 26 September 2022, Council adopted the Planning Proposal and resolved to forward it to DPE for a Gateway Determination. Council also adopted the advice of the LPP to progress the Planning Proposal with a public exhibition process as per standard LEP plan making practice. The Planning Proposal was updated to reflect the resolution of Council and forwarded to DPE on 12 October 2022. Further information on the Council report and resolution is provided at **Attachment 5**.

GATEWAY DETERMINATION

22. A Gateway Determination was issued by DPE on 16 November 2022 indicated the Planning Proposal should proceed subject to conditions. A copy of the Gateway Determination (with conditions) is provided at **Attachment 6** and summarised below.

Public Exhibition

23. The Gateway conditions specified that a public exhibition process is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Environmental and Planning Act and must be made publicly available for a minimum of 20 working days.

Design Excellence Bonus

24. A Gateway condition sought for clarification on the intended design excellence bonus in the Planning Proposal that can be awarded to the site specified under Clause 7.13 of the Parramatta LEP 2011. As the site was removed from the finalisation of the CBD PP by DPE, the existing LEP would allow for a Design Excellence bonus of up to 25% for the site, while the Council endorsed CBD PP intended a 15% bonus.
25. For consistency with the Council endorsed position on the CBD PP, the Planning Proposal was updated prior to public exhibition to reflect the intended 15% Design Excellence bonus under the CBD PP to respond this Gateway condition. Further information of the intended design excellence bonus is outlined in the Planning Proposal at **Attachment 2**.

Flooding

26. A Gateway condition requested Council to further address the Section 9.1 Flooding Direction by incorporating flooding analysis undertaken as part of the CBD PP. The Planning Proposal was updated prior to the exhibition to include refined details on flooding assessment. This further clarified that the Planning Proposal will not worsen flooding compared to the current planning controls on the site (see Part 3 of the Planning Proposal at **Attachment 2**). A copy of the flooding analysis was also included as part of the public exhibition document.

PUBLIC EXHIBITION OF THE PLANNING PROPOSAL

27. The Planning Proposal was exhibited from 14 December 2022 to 2 February 2023. Council received 31 submissions including thirty (30) community submissions and one (1) submission from Public Agency. A summary of the exhibition process and engagement activities is provided at the beginning of the **Attachment 1**.
28. While all submissions supported the intended outcome to redevelop the Riverside Theatre site, some submissions raised planning related concerns in relation to car parking, visual impacts and flood management. These submissions are considered to be requests for Council to investigate whether they warrant the Planning Proposal to be amended.
29. Council Officers have reviewed these submission requests and considered none of the submissions warrant any changes to the Planning Proposal. Further details of the submissions are outlined in the following section of this report and provided at **Attachment 1**.

Summary of Key Issues and Council Officer's Response

30. *Concerns raised that the Planning Proposal does not include detailed parking provisions for the proposed redevelopment of the theatre and the current car park is insufficient for the theatre visitors in the future.*

Council Officer response

The Planning Proposal will not result in greater development yield than what is already permitted on the subject site under the provisions of the current PLEP 2011 (i.e. no change to the existing FSR 3:1). The site is well serviced by existing public transport infrastructure including the western train line, bus network and ferry service. These services are currently utilised by theatre patrons. In addition, the site is within walking distance to the future Parramatta Light Rail stop located at Prince Alfred Square, which is expected to open in 2023, prior to the redevelopment of the Riverside Theatre. The completion of this infrastructure in advance of the new theatre opening will result in the site being more accessible to visitors across Greater Parramatta and assist in providing active public transport options.

As such a detailed parking consideration is not required as part of this Planning Proposal. Detailed car park design will be prepared as part of future design and Development Application process. Any proposed parking provision will need to comply with relevant controls for the CBD contained within the Parramatta LEP and Development Control Plan.

As a result of the above assessment, changes to the Planning Proposal in response to this submission are not necessary.

31. *Concerns raised in relation to the lack of detailed flooding protection measurement for the site, as the Riverside Theatre is located within a flood prone area.*

Council Officer response

The Planning Proposal has been assessed against the Planning Ministerial Direction and is consistent with its flooding requirements (See Part 3 of the Planning Proposal at **Attachment 2**). The Planning Proposal is not intensifying development yield, and strictly addressing urban design considerations only through the alteration of building height from 15m to 28m – no changes to FSR are proposed. Therefore, it is considered the Planning Proposal will not generate greater flooding risks than what is currently allowed on the subject site.

In addition, the Design Excellence process will need to respond to the flood affectation of the site. Detailed flooding protection is required for future development and will be assessed at Development Application stage. Any future development will need to comply with the Flood Risk Development Manual and relevant controls contained within the PLEP 2011.

As a result of the above assessment, changes to the Planning Proposal in response to this submission are not necessary.

32. *The Planning Proposal needs to ensure no overshadowing to the Parramatta River and its foreshore area.*

Council Officer response

Agreed. The Planning Proposal seeks to protect the solar access to the Parramatta River by introducing a site-specific clause requiring new development to not generate additional overshadowing to the southern side of the river foreshore between the hours of 12:00pm and 2:00pm. Noting the northern side of the river is already overshadowed by the existing building. These hours are consistent with the Council adopted policy position relating to additional overshadowing in the CBD PP.

It is also important to note that the proposed concept design to be delivered by the Planning Proposal exceeds the solar access protection to the Parramatta River and its foreshore area by an additional three hours compared to the CBD PP. This further ensures that the Planning Proposal will not generate overshadowing to the Parramatta River and its foreshore area.

As a result of above assessment, changes to the Planning Proposal in response to this submission are not necessary.

33. *The Planning Proposal needs to ensure no significant impacts on the view corridor of residents living in the Lennox building.*

Council Officer response

Noted. The Lennox building is located directly opposite to the Riverside Theatre on the southern bank of Parramatta River and is the tallest building in the surrounding built environment with a building height of 157m.

The Planning Proposal seeks to increase building height from 15m to 28m is considered to have inconsequential impacts on the view corridor, given the existing building has the height elements at 25m and the eastern side of the Church Street has the height of building control at 36m. In addition, the theatre concept design indicates that the proposed 28m is the highest building element which slowly descends towards the western side of the subject site.

The 3m increase in height will not have any significant impact on the views from the Lennox building and detailed building design and impacts on surrounding build environment will be further examined at design and Development Application process.

As a result of the above assessment, changes to the Planning Proposal in response to this submission are not necessary.

34. *Submitter is in the view of the car park and Market St area contains highly sensitive archaeological value and the subject site contains extensive aboriginal, colonial and post-colonial history. It is recommended that future new development retain and potentially display the archaeological area.*

Council Officer response

The Riverside Theatre site is neither a heritage listed item nor known as a potential archaeological site. The Planning Proposal has taken into consideration of the heritage studies prepared as part of the Parramatta CBD PP (including the theatre site) which concluded that the proposed planning

controls in the CBD PP will not generate significant heritage impacts within the study area. (See detailed discussion in **Attachment 2** and **Attachment 4**)

A detailed archaeology study for the site is not required at Planning Proposal stage, as the site is not currently listed as an archaeological site under the Parramatta LEP 2011 and not known as a potential archaeological site.

Whilst the Planning Proposal is considered acceptable from a heritage and archeology perspective as outlined above, further consideration of any potential archaeological implications will be considered at Development Application stage if and where required.

35. *Issues related to the facilities that should form part of the future Theatre and its design.*

A number of submissions commented on the theatre design parameters and programming (i.e. theatre capacity design, show types and 24/7 hours theatre etc) which is considered out of scope of the Planning Proposal project as it does not relate to the planning controls (refer to Attachment 1 for details of these submissions). Detailed building design including building articulation and integration with public domain along the riverside foreshore will be explored further through the design excellence competition and assessed at Development Application stage.

36. The Riverside Theatre Advisory Committee has been the forum for Council obtaining community input on the concept design and the facilities that should be included in the design. Council will continue to work with the Committee to finalising the design brief that will guide the design competition and subsequent State Significant Development application that must be lodged to gain approval for the new theatre. Public consultation will also occur as part of the future State Significant Development application.

PLANNING PROPOSAL ASSESSMENT

37. The Planning Proposal has been assessed against relevant State and local strategic planning policies. A copy of detailed assessment is available in the Planning Proposal at **Attachment 2**. It is noted the Planning Proposal is reflective of the requirements and conditions of the Gateway Determination.
38. It is considered that the Planning Proposal has demonstrated both strategic and site - specific planning merits and should proceed to finalisation for the following reasons:
- a. The Proposal proposed to ensure the necessary planning controls in place to allow the timely progression and redevelopment of the riverside theatre that is consistent with Council's Cultural Plan and the business case endorsed by Council on 12 December 2022;
 - b. The proposed building height increase from 15m to 28m is considered to have an inconsequential impact on amenity, flooding, overshadowing, and overall bulk and scale particular when it is noted that the existing building has a component that is already 25m tall despite the current 15m height controls; and

- c. The proposed site - specific provisions is consistent with the objectives and intents of solar access protection, design excellence bonus and active street frontage within the Council endorsed CBD PP.
39. Council Officers have reviewed the submissions received and proposed to progress the Planning Proposal with no further amendments as detailed in this report and **Attachment 1**.

PLAN MAKING DLEGATIONS

40. Council is not the plan making authority as specified in the Gateway Determination. Subject to Council endorsement, the Planning Proposal will be forwarded to DPE for finalisation. Council Officers will work with DPE to finalise the Planning Proposal.

FINANCIAL IMPLICATIONS FOR COUNCIL

41. The decision being made to endorse this Planning Proposal will have no direct impacts on the budget. Any cost of processing this Planning Proposal will be funded from the existing City Planning and Design budget.
42. Council has allocated funding for the Riverside Theatre redevelopment through a separate project. The finalisation of this Planning Proposal will allow timely progress of the redevelopment project.

CONCLUSION AND NEXT STEPS

43. This report has summarised and considered the submissions received as part of the public exhibition process for the Planning Proposal. As explained, the submissions do not warrant any amendment to the Planning Proposal. It is proposed to progress the Planning Proposal with no further amendments.
44. It is recommended that Council forward the Planning Proposal at **Attachment 2** to the Department of Planning and Environment for finalisation to ensure necessary planning controls are in place to allow the timely progression and redevelopment of the Riverside Theatre.
45. Notifications will be sent out to all submitters advising the outcome of the LPP and Council meetings.

Joyce Jiang
Senior Project Officer

Sonia Jacenko
Team Leader Strategic Land Use Planning

Robert Cologna
Group Manager, Strategic Land Use Planning

ATTACHMENTS:

 1 ↓	Submission Response Table - Riverside Theatre Planning Proposal	17 Pages
 2 ↓	Planning Proposal Riverside Theatre Site	328 Pages
 3 ↓	Council Meeting Resolution 12 December 2022 - Business Case Riverside Theatre Redevelopment	2 Pages
 4 ↓	Local Planning Panel Report & Resolution 16 August 2022	26 Pages
 5 ↓	Council Report and Resolution 26 September 2022	12 Pages
 6 ↓	Gateway Determination 16 November 2022	4 Pages

REFERENCE MATERIAL

Further information of the LPP report and its attachments can be found at Council website via:

https://businesspapers.parracity.nsw.gov.au/RedirectToDoc.aspx?URL=Open/2023/02/LPP_15022023_AGN_879_AT.PDF

