From: <u>David Waghorn</u>

To: <u>Planning Panels - Northern Beaches</u>
Cc: <u>Andrew Martin; Daniel Milliken</u>

Subject: Northern Beaches Bus Advertising Structures - Multiple DA"s at NBLPP on 5 November 2025 (Items 4.1-4.7)

**Date:** Monday, 3 November 2025 3:56:37 PM

Attachments: Letter to NBLPP (3.11.25).pdf

Good afternoon Panel Members,

We are the Consultant Planners representing the applicant in relation to the following DA's (Items 4.1-4.7):

- DA2025/0946
- DA2025/0951
- DA2025/0954
- DA2025/0955
- DA2025/0956
- DA2025/0957
- DA2025/0959

In general, we are satisfied with the recommendation and conditions of consent and have no objections to the above DA's with the exception of two (2) DAs as follows:

- DA2025/0957 relating to Sign I1
- DA2025/0951 relating to Signs E5 and E6

Dealing with DA2025/0951, we respectfully request that this DA be deferred allowing the applicant the opportunity to provide additional legal advice on this matter. The client has engaged Norton Rose Fulbright to prepare legal advice relating to Signs E5 and E6 but this has not been finalised due to the complexity of the matter. Given a number of other Bus Shelter Advertising DAs rely on similar levels of information to Signs E5 and E6, it is critical the legal advice is received to set parameters for future assessment and determination in this instance. As such, we respectfully request that **DA2025/0951 is deferred**.

Dealing with DA2025/0957, we note that it is recommended that Sign I1 not be approved, as we understand due to the lack of stamped approved plans. Whilst we agree this is unfortunate, Planning Ingenuity have undertaken 16 separate GIPA Applications to locate the plans to no avail. However, as noted in the SEE and assessment report, Sign I1 is the subject of separate DA's and CC approvals which are listed on Council's website and therefore we see no impediment to the grant of consent for Sign I1. To reinforce our view, Norton Rose Fulbright have prepared the attached legal advice stating the applicant's position. As such, we respectfully request that the panel **approve DA2025/0957**, **including Sign I1**, for the reasons discussed in the attached legal advice.

We will be at the meeting and happy to answer any questions from the Panel or Council.

Please confirm receipt of this information which has been cc'd to the Consultant Planner and Council staff.

### Regards

### **David Waghorn**

Director BPlan (Hons) MPIA



www.planningingenuity.com.au







3 November 2025

Email: planningpanels@northernbeachs.nsw.gov.au

Northern Beaches Council Local Planning Panel



Dear Sir/Madam

DA2025/0957 - Bus Shelter I1 located opposite 433 Condamine Street, Allambie Heights

### Introduction

- We refer to your correspondence dated 29 October 2025 to oOH!Media Street Furniture Pty Ltd confirming that DA2025/0957 (the **DA**) will be referred to the next meeting of the Northern Beaches Local Planning Panel (**Panel**) to be held at 12pm on Wednesday, 5 November 2025.
- We act for oOh!Media Street Furniture Pty Ltd in relation to this DA and wish to address the concerns raised in relation to "Sign I1" raised in the Development Application Assessment Report (**Report**) for the DA.
- 3 In particular, we wish to respond to the following conclusion:

The signage on bus stop I1 cannot be supported for approval as the development is not permitted in the zone and existing use rights have not been established for this existing sign (due to stamped plans not being able to be found). As a result, this sign is not recommended for approval.

### **Background facts**

- 4 Site I1 is situated at 433 Condamine Street in Allambie Heights. In 1996, Warringah Council issued a request for proposals for new street furniture funded by advertising signage.
- 5 3M Australian Posters was the successful tenderer, with the contract later assigned to Adshel Street Furniture Pty Ltd (**Adshel**).
- Following the award of the tender, Adshel lodged 40 development applications for new bus shelters with advertising panels. This included a development application for Site I1 which was described as Site Number 20555 opposite No 433 Condamine Street Allambie Heights.
- As outlined in the Report, Warringah Council granted consent to DA1999/3057 for the construction of a bus shelter at Site I1 being adjacent to 433 Condamine Street on 10 November 1999. However, no stamped plans have been able to be located for Site I1.

APAC-#313959484-v1

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- 8 Subsequently, 40 applications for a construction certificate were lodged with Warringah Council.
- In a memorandum dated 29 October 1999, entitled "Adshell Bus Shelters Construction Certificates" authored by Phil Gatenby, it is noted that Council received 40 applications for construction certificates for Adshel bus shelters. The locations are listed in the annexure to the memorandum. The memorandum also included a document setting out the scope of works to be carried out at each site the subject of each construction certificate application.
- 10 The attached document entitled "Metrolite' Bus Shelter Installation Scope of Works" includes the following statements about the scope of works:
  - (1) "Erect light box plan end and weather end panel and temporary bolt to footing".
  - (2) "Refix baseplates of uprights/ and Lightbox panel to footing permanently".
  - (3) "Connect electricity from power pole to light box for full illumination etc."
  - (4) "Clean site (final) ready for defects inspection by Adshel."
- In the list of sites subject to the above construction certificate application, is 3057 DA 20555 Site which is the site on Condamine Street Allambie Heights near Fishbourne Road.
- 12 A Construction Certificate for the construction of a bus shelter at the Site was approved by Warringah Council with reference CC1999/3057.
- A copy of the Memorandum dated 29 October 1999 is attached. A copy of a document from the DA tracker for Northern Beaches Council which shows both the DA and CC for this bus shelter is also attached.
- The above works clearly set out the works involved in constructing the light box for advertising signage on each of the bus shelters, including for bus shelter I1 at 433 Condamine Street Allambie heights.

### The legal principles

- In our view, the above facts clearly indicate that it can be presumed that Council granted development consent to signage on bus shelter I1. This is for two key reasons.
- The first reason is, as the Panel would know, a construction certificate cannot be granted unless the proposed works are consistent with the conditions of development consent. As the Construction Certificate application shows works to install a light box on Site I1, and that CC application was approved by Council, then it can be presumed the Council was satisfied the CC application was consistent with the development consent.
- The second reason is based on the principle in planning law called the presumption of regularity. The presumption of regularity provides that when a public authority acts within the scope of its official functions, "a presumption arises that all conditions necessary to the exercise of that power or the doing of that act have been fulfilled": *Minister for Natural Resources v NSW Aboriginal Land Council* (1987) 9 NSWLR 154 (at 164) per McHugh JA.
- In our view, the above background facts illustrate that it can be presumed that all conditions necessary to the exercise of the power to grant development consent and a construction certificate were fulfilled.
- 19 This presumption is supported by the following facts:
  - (1) Council went out to tender seeking proposals for advertising signage on bus shelters which included I1.

- (2) In response to the RFP, 3M Australian Posters lodged a tender which included a proposal for advertising on shelter I1.
- (3) 3M Australian Posters was successful in the tender.
- (4) This contract was later assigned to Adshel.
- (5) Adshel then lodged development applications to erect signage on a variety of bus shelters including shelters I1, I5, I6 and I7.
- (6) The development applications show that bus shelters I1, I5, I6 and I7 share identical physical dimensions, being 1.34m wide x 2.305m high x 300mm depth.
- (7) Development consent and a construction certificate was granted for the erection of bus shelter I1 in the "Pitched Roof Metro Style".
- (8) As outlined in the Report, this "Pitched Roof Metro Style" is the same style as each of the bus shelters I5, I6 and I7 also the subject of the DA, located along Condamine Street and Pittwater Road.
- (9) Each of these development applications were approved by the former Warringah Council in the period between October 1999 and April 2000.
- (10) As shown by the plans provided by the Council for shelters I5, I6 and I7, a component of each of the shelters constructed in this style was advertisement signage.
- (11) Given that Adshel Street Furniture Pty Ltd was the applicant for the development application for I1, it would be reasonable to assume the applicant (being a signage company) sought consent for signage on that shelter.
- (12) Council has relied upon this understanding for the more than 25-year period in which signage has been in situ at the Site.
- In these circumstances, it can be assumed that Council was acting lawfully in continuing to oversee the running and operation of the signage at bus shelter I1.
- 21 Accordingly, the presumption of regularity applies to presume that DA 3057 contained plans showing advertising signage on shelter I1.
- As development for the purposes of signage on bus shelter I1 is now prohibited, the signage within bus shelter I1 has the benefit of existing use rights.

We trust the above assists the Panel in its deliberations on bus shelter I1.

Yours faithfully



Dr Nick Brunton
Partner
Norton Rose Fulbright Australia
Contact: Phoebe Saxon

## Memorandum

To: Admin/File

CC:

From: Phil Gatenby

Date: 29/10/99

Re: Adshell Bus Shelters CONSTRUCTION CERTIFICATES

Council has received some 40  $\underline{\text{CONSTRUCTION CERTIFICATE}}$  applications for bus shelters from the above company.

The CC applications with relevant details are shown on the attached list.

Norm Fletcher is the officer who will process these CC applications.

Please prepare a standard construction certificate approval with Norm's stamped signature.

Phil Gateriby

Manager Development Assessment

### 'METROLITE' BUS SHELTER INSTALLATION

### Scope of Works

- Barricade site and maintain throughout site installation period
- Provide periodic site cleaning during construction phase and ensure site is clean and safe at all times
- Remove existing shelter if required
- > Saw cut existing concrete slab if applicable and prepare for footings
- > Prepare ground works excavate, trench and install conduit for electrical cable from power pole to footing as required
- Fix reinforcement and pour footings (and new concrete slab if specified)
- > Erect light box panel end and weather end panel and temporary bolt to footing
- Fix top and bottom support beams between end panels
- > Install roof to shelter and level shelter as required
- > Install gutter section to roof
- > Refix baseplates of uprights / and Lightbox panel to footings permanently
- Reinstate concrete around footings to detail and reinstate earth around slab perimeter as required
- > Install glass and silicon joints and silicon to glazing rails to rear of shelter and weather end panel
- Install seat and apply touch up paint to bolts / shelter as necessary
- > Connect electricity from power pole to light box for full illumination etc
- > Clean site (final) ready for defects inspection by Adshel

ADSHELL BUS SHELTERS

	applicant	proposal
3045 DA	ADSHEL STREET FURNITURE PTY LTD - 20546 SITE NUMBER	BUS SHELTER - 20546 SITE NUMBER - OUTSIDE NO.1264 PITTWATER ROAD - S/O NARRABEEN STREET
3046 DA	ADSHEL STREET FURNITURE P/L - 20571 SITE NUMBER	BUS SHELTER - 20571 SITE NUMBER - S/O FRENCHS FOREST ROAD
3047 DA	ADSHEL STREET FURNITURE P/L - 20554 SITE NUMBER	BUS SHELTER - 20554 SITE NUMBER - OUTSIDE 272 CONDAMINE STREET - N/O INNES ROAD
3048 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20536 - S/O FITZPATRICK AVENUE WEST - WARRINGAH COUNCIL
3049 DA	ADSHEL STREET FURNITURE PTY LTD - 20566	BUS SHELTER - SITE 20566
3050 DA	ADSHEL STREET FURNITURE PTY LTD - 20549	BUS SHELTER - SITE 20549
3051 DA	ADSHEL STREET FURNITURE P/L - 20551 SITE NUMBER	BUS SHELTER - 20551 SITE NUMBER - OUT OF 380 PITTWATER ROAD - W/O OLIVER STREET
3052 DA	ADSHEL STREET FURNITURE PTY LTD - 20550	BUS SHELTER - SITE 20550
3053 DA	ADSHEL STREET FURNITURE PTY LTD - 20543	BUS SHELTER - SITE 20543
3054 DA	ADSHEL STREET FURNITURE PTY LTD - 20540	BUS SHELTER - SITE 20540
3055 DA	ADSHEL STREET FURNITURE PTY LTD - 20573	BUS SHELTER - SITE 20573
3056 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20564 - W/O HILMER STREET - WARRINGAH COUNCIL
3057 DA	ADSHEL STREET FURNITURE P/L - 20555 SITE NUMBER	BUS SHELTER - STREET NUMBER 20555 - N/O FISHBURNE ROAD
3058 DA .	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20557 - E/O ALFRED STREET - WARRINGAH COUNCIL
3059 DA	ADSHEL STREET FURNITURE PTY LTD - 20539	BUS SHELTER - SITE 20539
3060 DA	ADSHEL STREET FURNITURE P/L - 20552 SITE NUMBER	BUS SHELTER - 20552 SITE NUMBER - OUTSIDE OF NUMBER 352 PITTWATER ROAD W/O AITKEN AVENUE
3061 DA	ADSHEL STREET FURNITURE - 20565	BUS SHELTER - SITE 20565
3062 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20560 - OPPOSITE JONES STREET - WARRINGAH COUNCIL
3063 DA	ADSHEL STREET FURNITURE PTY LTD - 20563	BUS SHELTER - SITE 20563
3064 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20567 - N/O BAMBARA ROAD - WARRINGAH COUNCIL
3065 DA	ADSHEL STREET FURNITURE PTY LTD - 20561	BUS SHELTER - SITE 20561
3066 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20569 - S/O HEWS PARADE - WARRINGAH COUNCIL
3067 DA	ADSHEL STREET FURNITURE - 20547 SITE NUMBER	BUS SHELTER - 20547 SITE NUMBER - N/O DEVITT STREET - OUTSITE 1234 PITTWATER
3068 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20570 - S/O ADAMS STREET - WARRINGAH COUNCIL
3069 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20538 - W/O OXFORD FALLS ROAD - WARRINGAH COUNCIL
3070 DA	ADSHEL STREET FURNITURE P/L - 20534 SITE NUMBER	BUS SHELTER - 20534 SITE NUMBER - E/O ARTHUR STREET - OUTSIDE NO. 680 WARRINGAH ROAD
3071 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20542 - S/O ANZAC AVENUE - WARRINGAH COUNCIL
3072 DA	ADSHEL STREET FURNITURE P/L - 20537 SITE NUMBER	BUS SHELTER - 20537 SITE NUMBER - E/O WAKEHURST PARKWAY
3073 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20553 - W/O AITKEN AVENUE - WARRINGAH COUNCIL
3074 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20548 - S/O TORONTO AVENUE - WARRINGAH COUNCIL
3075 DA	ADSHEL STREET FURNITURE P/L - 20558 SITE NUMBER	BUSH SHELTER - 20558 SITE NUMBER - E/O CONSUL ROAD NORTH - OUTSIDE NO. 105 WARRINGAH ROAD
3076 DA	ADSHEL STREET FURNITURE PTY LTD	BUS SHELTER - SITE 20572 - N/O WARRINGAH ROAD - WARRINGAH COUNCIL
3077 DA	ADSHELL STREET FURNITURE P/L - 20559 SITE NUMBER	BUS SHELTER - 20559 SITE NUMBER - E/O WILLANDRA ROAD - OUTSIDE NO. 181 WARRINGAH ROAD
3078 DA	ADSHEL STREET FURNITURE P/L - 20545 SITE NUMBER	BUS SHELTER - 20545 SITE NUMBER - OUTSIDE NO.1353 PITTWATER ROAD - S/O NARRABEEN STREET
3079 DA	ADSHEL STREET FURNITURE PTY LTD - 20562	BUS SHELTER - SITE 20562
3080 DA	ADSHEL STREET FURNITURE PTY LTD - 20541	BUS SHELTER - SITE 20541
3081 DA	ADSHEL STREET FURNITURE - 20556	BUS SHELTER - SITE 20556
3082 DA	ADSHEL STREET FURNITURE PTY LTD - 20535	BUS SHELTER - SITE 20535
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2.7.2				DENIBINO	10/00/00	10/04/00	DE0000//DU0 0		07.0-1.00
BUS	PITTWATER ROAD	(1) [1] [1] [1] [1] [1] [1] [1] [1] [1] [1]	ALLOCATION				PF3889//BUS-C		27-Oct-99
BUS	WAKEHURST PARKWAY	FRENCHS FOREST		PENDING			PF4915/BUS-C		27-Oct-99
BUS	CONDAMINE STREET	MANLY VALE	ALLOCATION					ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD - FITZPATRICK AVENUE WEST	FRENCHS FOREST						ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	FORESTVILLE	ALLOCATION				PF5011/BUS-C		27-Oct-99
BUS	PITTWATER ROAD	NORTH MANLY	ALLOCATION				PF3890/BUS-C		27-Oct-99
BUS	PITTWATER ROAD	NORTH MANLY	ALLOCATION				PF3890/BUS-C	ALLOCATION	27-Oct-99
BUS	PITTWATER ROAD	NORTH MANLY	ALLOCATION				PF3890/BUS-C		27-Oct-99
BUS	PITTWATER ROAD	COLLAROY	ALLOCATION	PENDING	10/22/99	12/01/99	PF3882/BUS-C		27-Oct-99
BUS	PITTWATER ROAD	DEE WHY	ALLOCATION	PENDING	10/22/99	12/01/99	PF3883/BUS-C		27-Oct-99
BUS	ALLAMBIE ROAD	FRENCHS FOREST	ALLOCATION	PENDING	10/22/99	12/01/99	PF88/BUS-C		27-Oct-99
BUS	WARRINGAH ROAD - HILMER STREET	FRENCHS FOREST	ALLOCAITON	PENDING	10/22/99	12/01/99	PF5012/BUS-C	ALLOCATION	27-Oct-99
BUS	CONDAMINE STREET	NORTH MANLY	ALLOCATION	<b>PENDING</b>	10/22/99	12/01/99	PF1074//BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD - ALFRED STREET	NARRAWEENA	ALLOCATION	PENDING	10/22/99	12/01/99	PF5013/BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	NARRAWEENA	ALLOCATION	PENDING	10/22/99	12/01/99	PF5013/BUS-C		27-Oct-99
BUS	PITTWATER ROAD	NORTH MANLY	ALLOCATION	PENDING	10/22/99	12/01/99	PF3890/BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	FORESTVILLE	ALLOCATION	PENDING	10/22/99	12/01/99	PF5011/BUS-C		27-Oct-99
BUS	WARRINGAH ROAD - OPPOSITE JONES STREET	<b>BEACON HILL</b>	ALLOCATION	PENDING	10/22/99	12/01/99	PF5005/BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	FRENCHS FOREST	ALLOCATION	PENDING	10/22/99	12/01/99	PF5012/BUS-C		27-Oct-99
BUS	FOREST WAY- BAMBARA ROAD	BELROSE	ALLOCATION	PENDING	10/22/99	12/01/99	PF1767/BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	FRENCHS FOREST	ALLOCATION	PENDING	10/22/99	12/01/99	PF5012/BUS-C		27-Oct-99
BUS	FOREST WAY - HEWS PARADE	BELROSE	ALLOCATION	PENDING	10/22/99	12/01/99	PF1767/BUS-C	ALLOCATION	27-Oct-99
BUS	PITTWATER ROAD	NARRABEEN	ALLOCATION	PENDING	10/22/99	12/01/99	PF3889/BUS-C	ALLOCATION	27-Oct-99
BUS	FOREST WAY - ADAMS ST	FRENCHS FOREST	ALLOCATION	PENDING	10/22/99	12/01/99	PF1768/BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD - OXFORD FALLS ROAD	BEACON HILL	ALLOCATION	PENDING	10/22/99	12/01/99	PF5005/BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	FORESTVILLE	ALLOCATION	PENDING	10/22/99	12/01/99	PF5011/BUS-C	ALLOCATION	27-Oct-99
BUS	PITTWATER ROAD	COLLAROY	ALLOCATION	PENDING	10/22/99	12/01/99	PF3890/BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	FRENCHS FOREST	ALLOCATION	PENDING	10/22/99	12/01/99	PF5012/BUS-C	ALLOCATION	27-Oct-99
BUS	PITTWATER ROAD - AITKEN AVENU	NORTH MANLY	ALLOCATION		10/22/99	12/01/99	PF3890/BUS-C	ALLOCATION	27-Oct-99
BUS	SOUTH CREEK ROAD - TORONTO AVENUE	CROMER	ALLOCATION		10/22/99	12/01/99	PF4344/BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	NARRAWEENA	ALLOCATION					ALLOCATION	27-Oct-99
BUS	ALLAMBIE ROAD - WARRINGAH ROAD	FRENCHS FOREST					PF88/BUS-C	ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	BEACON HILL	ALLOCATION		10/22/99		PF5005/BUS-C	ALLOCATION	27-Oct-99
BUS	PITTWATER ROAD	NARRABEEN	ALLOCATION					ALLOCATION	27-Oct-99
BUS	WARRINGAH ROAD	FRENCHS FOREST					PF5012/BUS-C	112200/111011	27-Oct-99
BUS	PITTWATER ROAD	DEE WHY	ALLOCATION				PF3883/BUS-C		27-Oct-99
BUS	PITTWATER ROAD	BROOKVALE	ALLOCATION				PF3880/BUS-C		27-Oct-99
BUS	WARRINGAH ROAD	FORESTVILLE	ALLOCATION				PF5011/BUS-C		27-Oct-99
ВОЗ	WARRINGAR ROAD	1 OILLOT VILLE	ALLOCATION	LIADING	IUIZZIOS	12101133	113011/203-0		21-001-33



## **≡** Menu

# Application Number: DA1999/3057

Description: Converted DA - Bus Shelter - Street Number 20555 - N/O Fishburne Road

Application Type: Converted Fujitsu

Status: Approved

Submitted: 22/10/1999

Cost of Work: \$4,000

Officer:

Submissions: Make a submission

Location People Events Documents Show All

Related Converted CC CC1999/3057/001

Applications: Location



Map Click to view enlarged map

Other Applications

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Location	People	Events	Documents	Show All		
History	Descrip	otion		Status	Completed	
	application Lodged submit to Council work Commenced			Complete	22/10/1999	
				NotReq		
				Complete	01/01/1900	
	work C	ompleted		Complete	01/01/1900	
	final Inspection					
	occupie	ed				
	notification					
	submis	sions Close Do	ate			
	applica	tion Determin	ed	Complete	18/11/1999	

## **≡** Menu

## Application Number: CC1999/3057/001

Description: Converted CC - App. No.:= 3057-3-1 Bus Shelter - Site 20555 - N/O Fishburne

Road

Application Type: Converted Fujitsu

Status: Approved

Submitted: 22/10/1999

Cost of Work: \$0

Officer:

Submissions: Make a submission

Location People Events Documents Show All

Related Converted DA DA1999/3057

Applications: Location



Map Click to view enlarged map

Other Applications