



**Land and Environment
Court**
of New South Wales

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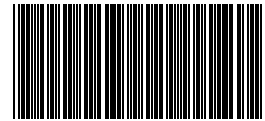
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D00014YB4E

24 May 2019

NOTICE OF ORDERS MADE

Case number 2018/00288738
Case title Domenico Morello v Northern Beaches Council

On 24 May 2019 the following orders (and/or directions) were made:

- (1) The Applicant is granted leave to amend the modification application to rely upon the amended architectural plans referred to in Condition A of Annexure A;
- (2) The Appeal is upheld;
- (3) Modification Application MOD 2017/0316 for modification of Development consent DA/85/2016 for erection of balustrading to roof including an external access hatch /skylight and modifications to external materials and colours at 26 Beatty Street Balgowlah Heights is approved subject to conditions in Annexure A.

For the Registrar

Annexure A

Morello v Northern Beaches Council

Conditions of Consent

A. Add Condition DA1A - Modification of Consent (Approval for Roof Top Access with associated Hatch, Skylight, Balustrade and Roofing Materials) - Approved Plans and supporting Documentation to read as follows:

The approved roof top access with associated hatch, skylight, balustrade and roofing materials (as shown in clouding) must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
CC05F Roof and Site Plan (Revision F)	13.5.2019	Aleksandar Projects Pty Limited
CC08F Elevation North (Revision F)	13.5.2019	Aleksandar Projects Pty Limited
CC09E Elevation South (Revision E)	13.5.2019	Aleksandar Projects Pty Limited
CC10E Elevation West (Revision E)	13.5.2019	Aleksander Projects Pty Limited
CC11E Elevation East (Revision E)	13.5.2019	Aleksander Projects Pty Limited
CC06D Section AA (Revision D)	13.5.2019	Aleksander Projects Pty Limited

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

Reason: To ensure the work is carried out in accordance with the approved plans.

B. Add Condition No. ANS07A – Restriction on Area of Accessible Roof Top to read as follows:

The accessible roof top area is to be restricted to the designated area shown on the approved plans, being that area at the top of the stairwell which is bordered by balustrade.

Reason: To ensure compliance with the terms of the modified consent.

C. Add Condition No. ANS07B – Restriction on Access to the Roof Top Area to read as follows:

The accessible roof top area is to be restricted and only for the purposes of gaining safe access to the roof top for cleaning, repair, maintenance and/or replacement. In this regard, no access for viewing, gathering, entertainment or any such similar activity by the residents and their guests nor animals is permitted.

Additionally, no objects or structures, whether temporary or permanent are to be placed within the approved roof top area or beyond the balustrade area.

Reason: To ensure the visual and acoustic amenity of the neighbouring and nearby properties is maintained.

D. Add Condition No. ANS07C – Modified Roofing Material to read as follows:

The material to be used in the reduced area as shown on the approved plans is to comprise clear glass with a height of at least 1000mm but not exceeding 1200mm. A 30mm thick layer of river pebble is to be installed over the underlay which has been installed in accordance with condition ANS07D.

The accessible area within the confines of the balustrade is permitted to be a more durable and trafficable surface such as pavers.

Reason: To ensure the visual amenity of the neighbouring and nearby properties is maintained.

E. Add Condition No. ANS07D – Remedial Works

By no later than 31 August 2019, the following remedial works shall be completed:

- (a) The unapproved existing balustrades shall be removed.
- (b) Install a neutral coloured underlay over the existing artificial grass.
- (c) The access to the roof shall be made safe.

Reason: To ensure the completed development is in accordance with the modified approval.

F. Add conditions No. ANS07E - Modified External Wall Colours and Materials.

The approved external wall finishes shall be in accordance with the finishes schedule on plan numbers DA06 (Revision B) and DA07 (Revision B) dated 4 December 2017 prepared by Aleksander Design Group.

Reason: To ensure the external finishes are in accordance with the approved plans.