

# STATEMENT OF A WITNESS

Version 4.2 (07/05)

**In the matter of:** Auburn Public Inquiry  
**Place:** Auburn City Council  
**Date:** 18 May 2016

**Name:** Jason Mooney

## STATES:

1. This statement made by me accurately sets out the evidence that I would be prepared, if necessary, to give at the hearing of the Auburn Public Inquiry as a witness. The statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I will be liable to prosecution if I have wilfully stated in it anything that I know to be false, or do not believe to be true.
2. I am 46 years old
3. I currently hold the position of Senior Development Control Officer (Senior DCO) at what is now Cumberland Council, formerly Auburn City Council (Council). At the time of the amalgamation there were two other Development Control Officers (DCO), Matthew Andrew and Gay Pandzic. I have worked at Council for approximately 12 years. I was initially a Ranger before moving to the DCO team after approximately twelve months.
4. In 2008 there was a Section 430 Investigation undertaken by the then Department of Local Government into a development otherwise known as Auburn Central.
5. It was identified, amongst other things, that there were a large number of illegal building works that had been undertaken by the owners of units in this complex. Illegal building works have the effect of interfering with building fire safety measures which ultimately put the occupants at increased risk in the case of a fire.
6. Robert Lawrence and I undertook an audit of the units in the Auburn Central development. The complex contains 471 units; I recall that within this development there was between 80-100 units which had illegal building works.
7. As a result the then General Manager, John Burgess directed that there be an audit of all unit complexes in the Auburn Local Government Area. During the following 24 months, the DCO

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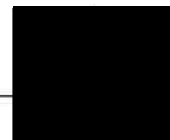
team undertook in excess of 1000 unit inspections. The inspections were undertaken by DCOs at the time including Helen Daskalakis, Mark Pearson, Asadujaman MD, Bruce Young and myself. I myself was present at approximately 1/3 of all the inspections.

8. Typically before we undertook an inspection we would research the nominated building. We would obtain the approved plans through Council records, if available. We would write to the strata manager if known and advise them of the inspections program approximately four weeks prior to any inspection. Then about a week before the inspections we would do a letterbox drop advising all the occupants of the inspections times.
9. We did the inspections as a team; however given the sheer number we inspected each unit individually. Typically, another DCO would assist if unauthorised works were identified during an inspection.
10. On the occasions that we identified unauthorised works we would obtain evidence including taking photos, question the occupants and make notes which were recorded on a pro-forma document called an RFB Inspection Sheet.
11. On 28 October, 2008 Helen Daskalakis and I attended 40-46 Station Road, Auburn. This was a 3 storey complex over a basement carpark and consisted of 41 units. During the inspection it was identified that there was a large number of units which had works which were not in accordance with the approved plans. During the inspection I remember recalling that the high number of units with what appeared to be unauthorised works resulting in additional rooms.
12. During the initial inspections we took photos and made records of our inspections. We returned to Council and undertook more extensive research of the council files in relation to this development.
13. I advised my then Manager, Robert Lawrence of what we had identified during the inspections. At some stage Robert asked me to write a report. On 30 October, 2008 I wrote my report outlining the findings of inspections undertaken at the premises up to that time. The report was submitted to Robert Lawrence.
14. In my opinion the majority of the illegal building works on this site occurred during the construction phase of the construction. I based this opinion on:
  - a. The fact that most of the illegal works were constructed of masonry, the render was consistent with the rest of the unit.
  - b. Painting, cornices, skirting boards and architraves were consistent with the rest of the unit.

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- c. The evidence from the unit owners.
  - d. My recollection that the door hardware, including hinges was also the same.
15. Other than for this particular building, I have no recollection of ever having come across, in all of the units that I have inspected for the purpose of ascertaining if there were unauthorised works, an instance where there was a masonry addition. I estimate that I have inspected between 800 and one thousand such units.
16. The units were not old and I observed them to still be in what appeared to be the original colour. All of this appears in my report. My report was based upon the document, a copy of which is annexed hereto and marked with the letter A.
17. The unauthorised work consisted of the construction of walls to enclose an area within the unit. This resulted in the unit having an additional room. Typically the additional room had been converted into a bedroom.
18. Generally at the completion of an investigation I would have filed all the associated documents and evidence obtained in Council's electronic records management system, TRIM. As the matter was ongoing, I cannot recall if I TRIMed the documents in this case. I do recall that I made hard copy of the documents which I retained. The creating of a physical hard copy file or 'dossier' is normal practice with any matter which I am dealing with. In relation to the original documents I don't have a specific recollection of handing them to anyone, however if I had of forwarded these documents, it would have been to Robert Lawrence as my manager. The reason I say this is that I didn't report directly to senior management within in the organisation.
19. I understood at the time, the matter was referred to Council's solicitor. I remember seeing the solicitor's advice provided to Council which recommended the issuing of a number of fines to the developer and the regularising of the unauthorised works through the issuing of building certificates. I thought the advice to only fine six of the units rather than all the units in which unauthorised work had been identified was odd.
20. Robert Lawrence was the one that showed me the advice; however I was never directed to act on this advice.
21. I remember discussing the advice with Robert Lawrence and where we were heading in relation to acting on the solicitor's advice. He advised me that he had not been given any direction either.
22. Typically I would have issued directions to remove the unauthorised works through the issuing of a Notice/Order, however as the matter involve a serving Councillor I did not proceed with the

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issuing of a Notice/Order as I was awaiting direction from my manager – Robert Lawrence who in turn was awaiting direction from senior management.

23. I didn't hear anything else about this matter until late February, 2016 when Glenn Francis spoke to me about it. He indicated that he was having trouble locating the file in relation to the inspections. I told him about my copy which I then scanned and entered into Councils electronic records management system TRIM.

Witness:



Signature:



" A "

40-46 . STATION RE: Inspections

1	OK	OK -28-10
2	1/2 EX	3br 1/2 Ex 2 ROOM MASONRY with dining, 28-10
3	1/2 EX	<del>NOAH</del> 28-10 1x EXTRA MASONRY 28-10
4	1/2 EX	<del>NOAH 28-10</del> - <del>NOAH 29-10</del> MORTAR 3br x 1 EXTRA GYPROCK
5	1/2 EX	NOAH 28-10 - NOAH 29-10 NOAH 30-10 (p.m) 3br x 1 EXTRA MASONRY
6		VACANT MORTGAGE
7	OK	2br OK
8	OK	3br OK 28-10
9	2x EX	NOAH 28-10 NOAH 30-10 <del>NOAH 30-10 (pm)</del> 4br 2x Extr 1x Mas + 1 GYPROCK
10	1/2 EX	3br 1/2 Extra GYPROCK with 28-10
11	1/2 EX	3br 1x Add Masonry 28-10
12	1/2 EX	<del>NOAH 28-10</del> 3br OK 29-10 NOAH 28-10 NOAH 1 EXTRA 13-11-08
13	OK	<del>NOAH 28-10</del> 3br OK 29-10
14	OK	OK 28-10
16	1/2 EX	2br 1/2 Additonal Masonry 28-10
17	1/2 EX	<del>NOAH 30-10</del> 1x Extra GYPROCK 28-10
18	1/2 EX	NOAH 28-10 - NOAH 29-10 NOAH 30-10 3br 1x EXTRA MASONRY
19	OK	<del>NOAH 28-10</del> - <del>NOAH 29-10</del> <del>NOAH 30-10</del> <del>NOAH 30-10 (pm)</del> 3br OK
20	OK	<del>NOAH 28-10</del> <del>NOAH 29-10</del> 2br OK 30-10
21	OK	3br OK <del>NOAH 28-10</del>
22	1/2 EX	<del>NOAH 28-10</del> <del>NOAH 30-10</del> <del>NOAH 30-10 (pm)</del> 3br 1x Ex MASONRY
23	1/2 EX	<del>NOAH 28-10</del> <del>NOAH 30-10</del> 3br 1x EXTRA GYPROCK
24	1/2 EX	<del>NOAH 28-10</del> 3br 1x Extra Masonry 28-10
25	1/2 EX	3br 1x Extra Masonry <del>NOAH 28-10</del> 28-10
26	OK	OK 28-10
27	OK	NOAH 28-10 2br OK 29-10
28	OK	NOAH 28-10 - NOAH 29-10 OK PREVIOUS
29	1/2 EX	3br x 1 EXTRA MASONRY 28-10
30	1/2 EX	<del>NOAH 28-10</del> <del>NOAH 29-10</del> <del>NOAH 30-10</del> 3br 1x Extra Masonry 30-10
31	1/2 EX	3br 1/2 Extra GYPROCK 28-10
32	1/2 EX	<del>NOAH 28-10</del> <del>NOAH 29-10</del> 3br 1x EXTRA 30-10 MASONRY
33	OK	NOAH 28-10 NOAH 29-10 NOAH 30-10 2br OK
34	OK	<del>NOAH 28-10</del> <del>NOAH 29-10</del> 2br OK 30-10
35	OK	3br OK 28-10
36	1/2 EX	3br x 1 Extra Masonry 28-10
37	1/2 EX	3br x 1 extra NO NUMBER on door GYPROCK
38	1/2 EX	3br 1/2 Extra Masonry 28-10
39	1/2 EX	3br 1/2 Extra Masonry 28-10
40	OK	3br OK 28-10
41	1/2 EX	3br 1x Extra Masonry 28-10
41	OK	2br OK 28-10

Blue Note

7

23 = ADD  
16 = OK  
39

15 EXTRA