

WESTERN AUSTRALIA

OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005

STATUTORY DECLARATION

I, Robert J Sills
[Redacted]
{n}

sincerely declare as follows:-

Following an email to Mr Phillip Russell of the Statutory Planning Department of the City of Swan on May 15th 2009 the email was followed up with a phone call to Mr Russell due to him not responding to the email.

In the telephone call while referring to DA11/2009, when Robert Sills stressed to Mr Russell that the structure was not compliant in terms of setback and materials used Mr Russell stated that he was not prepared to demand its removal for its non-compliance because it has already been built - without a valid development application.

Mr Russell was not willing to declare this in writing.

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005*

at West Perth
{place}

March 22 2018
{date}

in the presence of -

by [Signature]
{Signature of person making the declaration}

[Signature]
{Signature of authorised witness}

JOANNE [Redacted]

PHILIP ARIST
{Name of authorised witness and qualification as such a witness}

[Redacted]
[Redacted]
[Redacted]
[Redacted]

WESTERN AUSTRALIA

OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS ACT 2005

STATUTORY DECLARATION

Robert John Sills

{name, address and occupation of person making declaration}

sincerely declare as follows:-

On Wednesday December 6 at 5:30pm at the City of Swan Agenda forum in the presence of the City of Swan CEO, Executive team and all City of Swan Councillors (Cr Mark Elliott absent) Mr Philip Russell of the City of Swan Statutory Planning Department made the following statement with respect to DA-11/2009/B:

1. Mr Russell stated that he has personally visited the site at [REDACTED] and verified the stated setback of 1.5m.
2. Mr Russell claimed that on April 10 2012 City of Swan staff attended the site and staff measured the structure.
3. Mr Russell did not offer any evidence to prove the original compliance and did not offer to demonstrate compliance by measuring to the stirrups that have always been in the same position and will prove non-compliance.
4. Mr Russell did not offer any explanation as to why the footprint of the current building as represented in the drawings, 4.8m, is identical to the previous structure despite now being 800mm wider with the extension.
5. Mr Russell did not offer any explanation why the latest plans are identical to the previous plans other than the applicant modifying the setback from 1500mm to 770mm
6. Mr Russell stated several times that the applicants [REDACTED] had acted in "good faith" submitting a development application 1 month after construction.
7. Mr Russell claimed that the applicants [REDACTED] had submitted a development application a month after actual construction of the gazebo.
8. Mr Russell claimed that the applicants had offered to install screening in "good faith."
9. Mr Russell had no knowledge of compulsory construction requirements for building in a bushfire prone zone. i.e. AS3959

10. Mr Russell stated that the gas pipelines will need to be assessed under the separate building code.
11. Mr Russell stated that the drainage has been addressed with ponds not visible in older pictures.
12. Mr Russell only referred to the second boundary survey supplied by Mr & Mrs Sills dated January 2017 but incorrectly referred to it December 2016, stating that the structure was closer to the boundary because this survey was conducted after the gazebo extension.
13. Mr Russell made no reference to the earlier boundary survey taken in June 2010 for which the structure is not compliant and conducted prior to gazebo extension.
14. Mr Russell confirmed that the position of the City of Swan statutory planning department is that the structure will be compliant and setback 1.5m from the boundary if the yet to be retrospectively approved extension is removed.
15. Mr Russell stated several times that it is commonplace throughout local councils for structures to be built and retrospective approval sought after the fact.
16. Mr Russell did not clarify what will happen to non-compliant structures.

This declaration is true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005*

at West Perth
{place}

March 22 2018
{date}

in the presence of -

by [Signature]
{Signature of person making the declaration}

[Signature]
{Signature of authorised witness}

JOANNE [Redacted]
.....

PHARMACIST
{Name of authorised witness and qualification as such a witness}

[Redacted]
[Redacted]
[Redacted]
[Redacted]