

# Say what you mean and mean what you say

by Michael McMahon

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I will start by asking four questions, ok?

Now there are three questions left.

Could everyone put up their hand who have held a real live atrax robustus in their bare hands?

Could everyone put up their hand who have seen an atrax robustus when they have moved a rock in the garden?

Could everyone put up their hand who have seen a Sydney Funnel Web spider?

I was not expecting a response to the first two questions.

The third question put the words atrax robustus into context and the fourth question explained what I was talking about in plain English.

I said what I meant and I understood what I meant and it was accurate ... but communication is a two way thing and the audience should also understand what I meant.

This demonstrates that the second part of the title “Say what you mean and mean what you say” is the more important element.

## **2. Cooking cake**

Hand up everyone who has ever baked a cake.

You should all know what the expression “cream the butter and sugar” means, unless your cake was a cheap and nasty packet cake. It is the way you start in making most cakes where you mix the butter and sugar together so that they form a type of cream.

This exercise demonstrates that in this case everyone knows the meaning of the five individual words but the effect of the combination is not understood by everyone who is not familiar with the terminology.

Getting back to the cake, plain flour is like good plain English. It is unambiguous and it has one meaning, it is ground up wheat, nothing more, nothing less. The self raising flour is like the euphemisms and the slang. There is more to it than just plain flour. It also contains sodium bicarbonate which produces carbon dioxide when the cake goes in the oven and it is the carbon dioxide bubbles which make the cake rise.

I have a practice of drafting conditions of consent so that a twelve year old child can understand them. That way I can be confident that the majority of the councillors will also understand them.

### **3. Euphemisms, plain English and slang.**

Euphemisms are used by Judges and Commissioners all the time.

Plain English is a welcome stranger.

Slang is part of our language and Judges and Commissioners should understand slang, and they can think in slang, but it is rare for them to use slang.

The common theme with euphemisms and slang is that they deliberately have more than one meaning.

Good plain English should have only one meaning and that should make plain English conditions easier for everyone to read and understand.

### **4. Comments from cases.**

#### **Comparable neighbours:**

In the tree case of **Zang v Long [2007] NSWLEC 632** the Commissioners said:

*“Ms O’Keefe is clearly a houseproud resident who pays considerable attention to the interior and exterior maintenance of her property which was, generally, in meticulous condition.*

*12 The other two residences each evidenced a much less responsible attitude by their owners to dwelling and grounds maintenance – indeed attitudes which showed scant regard to what might be societal norms in this regard.*

The euphemisms could be converted into slang: “The first house was well maintained but with the second two houses there was shit<sup>1</sup> everywhere”.

### **Meaning of “Scale”:**

In *Veloshin v Randwick [2007] NSWLEC 428* Senior Commissioner Roseth said: The terms *excessive height, bulk and scale* and *overdevelopment* are probably the most frequently used phrases in councils’ Statements of Contention. While *bulk* and *scale* tend to be used interchangeably, strictly speaking, *bulk* refers to the mass of a building and *scale* is properly used only when referring to the relative size of two or more things. When *scale* is used to mean *apparent size*, it is better to use those words. When *scale* is used to denote the *character* of an area, it is better to use that word.

### **The goat collector:**

I will now share with you some of my experiences with euphemisms slang and plain English.

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<sup>1</sup> If this word is unfamiliar to you, ask Kenny.

There was a case in which I appeared in front of the dynamic duo (the two ex judges that introduced this speech) on two different occasions.

The first appearance arose after the then Mayor of Waverley Council, Barbara Armitage phoned me late one day and asked if I could do her a favour. She said that she had just been to visit her son in hospital and the mother of the boy in the next bed said that she was worried that her husband could be off to jail the next day. I had an interview with him half an hour before we were on in front of Marla Pearlman. It was the last day of sitting in the American Express building and I was lucky to get leave to have some more time to get more detailed instructions. Put briefly, my client was the collector of many goats and he had previously been on the wrong end of an order from the court that he was not allowed to bring his work home with him and he was now up for contempt.

On the next occasion I was before Angus Talbot and to use some slang he was required to “Shoot the Puppy”<sup>2</sup>. Those words are both slang and a euphemism and on the day they went close to being plain English.

We were in the old court rooms between Macquarie Street and the Domain and the opening words from the bench were “I cannot hear you Mr McMahon”.

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<sup>2</sup> See the book by the same name by Tony Thorne, A survival guide to the curious jargon of modern life.

I replied “I am sorry Your Honour I am not accustomed to being in such a large and grand court room”.

I did not appreciate that his words were a euphemism ... they probably were slang also.

The response was “No, you do not understand ... Your client owes money to the court and we cannot proceed until that money is paid”.

I turned around to look at my client and he raised both hands slowly in the air.

At this stage I was beginning to suspect that perhaps my instructions were not quite as thorough as would be desirable to run this case and perhaps it would be convenient to supplement the instructions. A short adjournment was granted.

The slang is “the bastard has not given me the full bottle”.

That is probably also slang for what the judge was thinking of me.

I contacted Registrar Michael Connell (who is now a Local Court Magistrate) and he said that an order had been served on my client’s father by substituted service because my client could not be contacted.

My client said to me “My father does not talk to me”.

I said “Please explain”.

He said “I collect wild goats for a living. I collect goats from various farms and then normally export them overseas. I have a semi trailer with several layers on it.”

I said “How do you get them onto the truck”

He said “I have a ramp and they run up the ramp”

I said “How do you persuade them to run up the ramp?”

He said “You do not need to know that... Sometimes some of the bucking (I think that is the word he used) billies (male goats with sharp horns) think that it is their truck and they stop at the top of the ramp and look at me ... I let them know early on that it is my truck”.

My client is a big man and when I shook hands with him I could reach down to about his third finger.

He then said “Anyway, last year I was on a purple patch.” I thought, this being slang, there are several meanings. Did he mean there was a lot of Patterson’s Curse around then or did he mean that he was making some good money out of the goats.

It transpired that the second meaning was what he meant.

The downside was that he was away from Bourke for several months.

He then said that when he returned “My father had sold my oxy gear on me”.

I said “What has that got to do with your father not speaking to you?”

He said “Well I had to deck him didn’t I?”

For the innocent ones amongst you, that slang is interpreted as meaning:

“I approached my father in an aggressive manner and I swung my fist in such a way as to make physical contact with his body causing it to assume a horizontal position on the ground.”

He found the money, the wheels of justice were oiled and we got on with the case.

I tried to argue that this was no different to an electrician bringing a van home with tools. Alternatively, Doctor Raffles was able to come and go from his house in a helicopter and my client was merely bringing his work home.

What I had difficulty pushing up hill were the facts that this was a semi-trailer with two layers full of wild goats that would be making noise all night and producing fluids and solids that were capable of producing aromas that might not be enjoyed by the neighbours, and the fact that there was a long history of difficulty with the neighbours and the council and there was an outstanding court order.

There was a \$2,000 penalty and the only good thing to come out of the case was the recognition by the court that my submissions were “spirited and ingenious”.

### **Entry possibilities:**

Perhaps the most memorable experience when I was in house solicitor at Waverley Council was the day when Peter Moscott, phoned me.



I will explain the situation in lawyer euphemisms and then you can hear the slang version.

On the day in question the Deputy Mayor of the council made telephone contact with me and told me something. I thereupon caused a council health and building surveyor to appear in my office. Using a loud speaking telephone I then telephoned a number which was obtained from the local paper in the adult services section and we made contact with a female person. Using an assumed name I enquired of this female whether my interpretation of the possible services suggested in the advertisement could be available. Her response was in the affirmative. I then enquired whether those services could be provided on the day in question and again the response was in the affirmative. It was my intention that I would send my accomplice to the locus in quo and use my assumed name to gain access to evidence we desired for the purpose of terminating the performances alleged to be under way at the premises. Being a lawyer, I then sought further and better particulars as to the manner of gaining access. There was an immediate response from the female in which she used three words and repeated those three words as she detected an ambiguity in my words (which I certainly did not intend). The ambiguity arose because an ordinary word I used is a slang word in her profession and she thought I was exploring the

possible outer scope of my intended possible modus operandi upon entering the premises.

My accomplice understood the meaning of the slang word quicker than I did and he started making a noise which caused me to terminate the conversation.

The Plain English/Slang version:

The Deputy Mayor rang me and said “Mick, a brothel has opened up in Hall street and the locals are onto me to get it closed down. They are advertising on the third last page of the Wentworth Courier can you do something about closing them down?”

I phoned Mark Featherstone, one of the council’s health and building surveyors and he came to my office.

We put my phone on loud speaker and I phoned the number in the paper.

A female answered and I said “Hello, it is John here, can I come there for a good time”.

She said “You certainly can John, we have plenty of nice girls here.”

I said “I got your number from the Wentworth Courier, is the address shown there correct?”

She said “Yes”.

At that point I should have sat down and shut up, but in order to assist Mark I enquired “Do I come in the back door?” and that was where the ambiguity arose.

She said “No back door, no back door”.

Mark started to laugh and I hung up the phone.

The bottom line is use the terminology that the audience understands. That way you can be more likely to mean what you say.