

20EW0010162



**Government
of South Australia**

Office of the Minister for
Environment and Water

81-95 Waymouth Street
Adelaide SA 5000

GPO Box 1047
Adelaide SA 5001

Tel 08 8463 5680
minister.speirs@sa.gov.au

Mr Ian Hunter MLC
Parliament House
ADELAIDE SA 5000
Email: hunter.office@parliament.sa.gov.au

Dear Mr Hunter

I refer to your application pursuant to the *Freedom of Information Act 1991* (the Act) received by the Office of the Minister for Environment and Water, on 7 August 2020, seeking access to:

"Copies of any and all correspondence between the Minister, the Minister's Office or the Department of Environment and Water and the City of Marion regarding the Dog and Cat Management Act, council by-laws relating to cats and other by-laws."

DETERMINATION

Searches of documents held by the Office of the Minister for Environment and Water have found five (5) documents within scope of your request.

As the Accredited FOI Officer, I have considered the documents and determined to grant you full access to 4 documents and partial access to 1 documents pursuant to Sch 1 cls 10(1) & 17 of the FOI Act.

DISCLOSURE LOG

In accordance with [PC045 – Disclosure logs for Non-personal information](#) once a determination has been provided, the Office is required to make information and documents that have been disclosed available on the Department for Environment and Water website. Information will be publicised online at <https://www.environment.sa.gov.au/about-us/freedom-of-information/foi-disclosure-log/minister-disclosure-log>.

FEES AND CHARGES

There is no charge for processing this application.

YOUR APPEAL RIGHTS

If you are dissatisfied with this determination, you are entitled to exercise your rights to internal review and appeal as outlined in the attached documentation, by completing the attached Application for Review of Determination.

If you decide to apply to exercise your rights to review, the completed form must be returned within 30 days to:

Principal FOI Officer
Office for the Minister for Environment and Water
PO Box 1047
ADELAIDE SA 5001

If you have any queries in relation to the above please contact me on telephone (08) 8463 5680 or email Minister.Speirs@sa.gov.au.

Yours sincerely



Carly McNeill
ACCREDITED FREEDOM OF INFORMATION OFFICER
Office of the Minister for Environment and Water

16/10/2020

Encl: Document schedule
Release documents

Freedom of Information application: 8519315

Copies of any and all correspondence between the Minister, the Minister's Office or the Department of Environment and Water and the City of Marion regarding the Dog and Cat Management Act, council by-laws relating to cats and other by-laws.

No	Author	Date	Document Description	Determination	Clause	Reason
1	Minister for Environment and Water	23/01/2020	Letter to Mr Skull regarding cat by-laws	Full access		
2	Adrian Skull	9/09/2019	Letter to the Minister for Environment and Water regarding the Dog and Cat Management Board	Full access		
3	Minister for Environment and Water	2/07/2020	Letter to Mayor Hanna regarding the City of Marion's cat management by-laws	Partial access	Sch 1 cls 10 & 17(c)	Subject to legal professional privilege Documents subject to contempt
4	Bruce Hull	3/07/2020	Letter to the Minister for Environment and Water regarding cat management by-laws	Full access		
5	Mayor Kris Hanna	15/07/2020	Letter to the Minister for Environment and Water regarding State government commitment to model by-laws for roaming cats	Full access		



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19EW0006542

Mr Adrian Skull
Chief Executive Officer
City of Marion
Email: ceoea@marion.sa.gov.au

Dear Mr Skull ,

Thank you for your letter dated 9 September 2019 regarding cat by-laws.

I am advised that the Dog and Cat Management Board (the Board) has considered the City of Marion's proposed by-law dealing with cat confinement – including seizure and detention. With the benefit of legal advice, the Board has concluded that any proposals for the seizure, detention and destruction of cats are inconsistent with the *Dog and Cat Management Act 1995* (the Act) and there is a risk that these measures could be found to be invalid, if an application were to come before a Court.

I am advised that the Board has formally conveyed its position to the City of Marion's legal representatives and it has formally recommended that council review its proposed by-laws, having regard to the existing provisions of the Act.

The Act is currently scheduled for review in 2022, and in anticipation of that review, the Board is maintaining a record of concerns that are being raised in relation to the operation of the Act, which will be incorporated into the review.

The Board will continue to work with key stakeholders, including individual councils, the Local Government Association, the RSPCA and the Animal Welfare League, to discuss the complex challenges of cat management being faced in local communities and to explore all possible viable and effective solutions.

As you are no doubt aware, the RSPCA and Animal Welfare League have recently launched a Cat Management Plan for South Australia, which recommends that local councils adopt a number of actions to improve the management of cats within the community, including in respect of seizure and mandatory detention of cats. I am interested to see practical improvements progressed in this space and have asked that the Department of Environment and Water and the Board consider options that are available within the existing legislative framework.

For further information, please contact Linda Allery, Manager, Dog and Cat Management Unit within the Department for Environment and Water on 8207 7750 or linda.allery@sa.gov.au.

Thank you for writing to me and I trust this information is of assistance to you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Speirs', with a horizontal line underneath.

DAVID SPEIRS MP

Minister for Environment and Water

Date: 23/01/2020 .

9 September 2019



David Speirs MP
Member for Black
PO BOX 121
BRIGHTON SA 5048
Email: Black@parliament.sa.gov.au

PO Box 21, Oaklands Park
South Australia 5046

245 Sturt Road, Sturt
South Australia 5047

T (08) 8375 6600

F (08) 8375 6699

E council@marion.sa.gov.au

Dear Minister *David* Speirs,

At the City of Marion General Council meeting on 27 August 2019, Council endorsed that administration write to the Dog and Cat Management Board (DCMB) and State Government to seek amendments to the Dog and Cat Management Act 2017 and associated Regulations to put beyond doubt the Council's power to make a By-law dealing with cat confinement, including seizure and detention powers for authorised officers, as proposed in our draft By-law.

Council administration has met with the former Dog and Cat Management Board Secretary and a member of the Crown Solicitor's (CSO) office who raised concerns with our draft cat confinement By-law. We are yet to receive any formal response from the Board or the CSO. Changes to the Act and Regulations would provide clarity for Council's ability to adequately deal with cat issues by implementing a comprehensive By-law.

We seek your support in both pursuing changes to the Act and Regulations and obtaining a formal response from the DCMB outlining its position.

Kind Regards

Adrian Skull
Chief Executive Officer

Cc: Dog and Cat Management Board

The City of Marion acknowledges it is part of Kaurna land and recognises the Kaurna people
as the traditional and continuing custodians of the land.



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of South Australia**

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Environment and Water**

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Tel 08 8463 5680
minister.speirs@sa.gov.au

20EW0009785

Mayor Kris Hanna
City of Marion
Email: council@marion.sa.gov.au

Dear Mayor Hanna

I write in relation to the City of Marion's cat management by-law and the recent decision by the Parliament's Legislative Review Committee to recommend the disallowance of this by-law. This recommendation was accepted and the Legislative Council successfully disallowed the by-law on 2 July 2020. Note that this was not a decision of the government, but rather a decision of the Parliament.

The Council has been advised on numerous occasions that they should consider reviewing the by-law and I attach for your interest the following:

Clause 10 - Legal Professional Privilege, Clause 17 (c) - Documents subject to Contempt

[Redacted content]

Despite this correspondence recommending that you consider revising the by-law, the Council has insisted on maintaining it as originally drafted. Quite frankly I am frustrated by the council's approach to this matter. There were no surprises here. The council was advised in the clearest of terms that the by-law was vulnerable to disallowance and further, was advised as to how it should be slightly altered to ensure that it would be legally robust.

I understand that the council continually points to a similar by-law which was created by the District Council of Yankalilla, referred to as *Cats By-law 2018*. If you have regard to the advice provided to the Council by the Dog and Cat Management Board and the Legislative Review Committee, you will appreciate that the primary concern in relation to the proposed by law was that paragraph 11, namely 'Seizure, Detention and Destruction of Cats', was inconsistent with Part 5A of the Act. This is because the Act *does not allow* a Council to pass a by-law which relates to seizure, detention and destruction of cats. If you refer to the District Council of Yankalilla's by-law, you will quickly see that they do not have a provision which relates to seizure, detention and destruction of cats.

The Council should reflect on the considerable time, effort and resources that have been allocated towards progressing this by-law.

You would recall that in 2019 I suggested that your council consider best practice cat management laws and the state government would work with the council to demonstrate excellence in this area, which we hoped other councils would follow. Your council had a great opportunity to demonstrate leadership here, I fail to understand why you took the approach that you did.

I am saddened that our environment and our community is worse off because of your council's unusual approach to this matter. I have no doubt other councils will seek to work with the state government to develop best practice approaches to cat management and I look forward to continuing reform of this area with councils who demonstrate both proactive desire to be involved and who are interested in founding by-laws on legally robust principles.

Yours sincerely

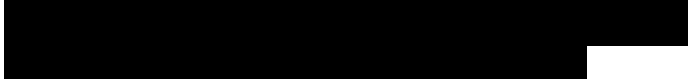
DAVID SPEIRS MP

Minister for Environment and Water

Date:

cc: Elected members, City of Marion
Mr David Parkin, Chair, Dog and Cat Management Board

Encl: Clause 10 - Legal Professional Privilege, Clause 17 (c) - Documents subject to Contempt



Clause 10 - Legal Professional Privilege

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Clause 10 - Legal Professional Privilege

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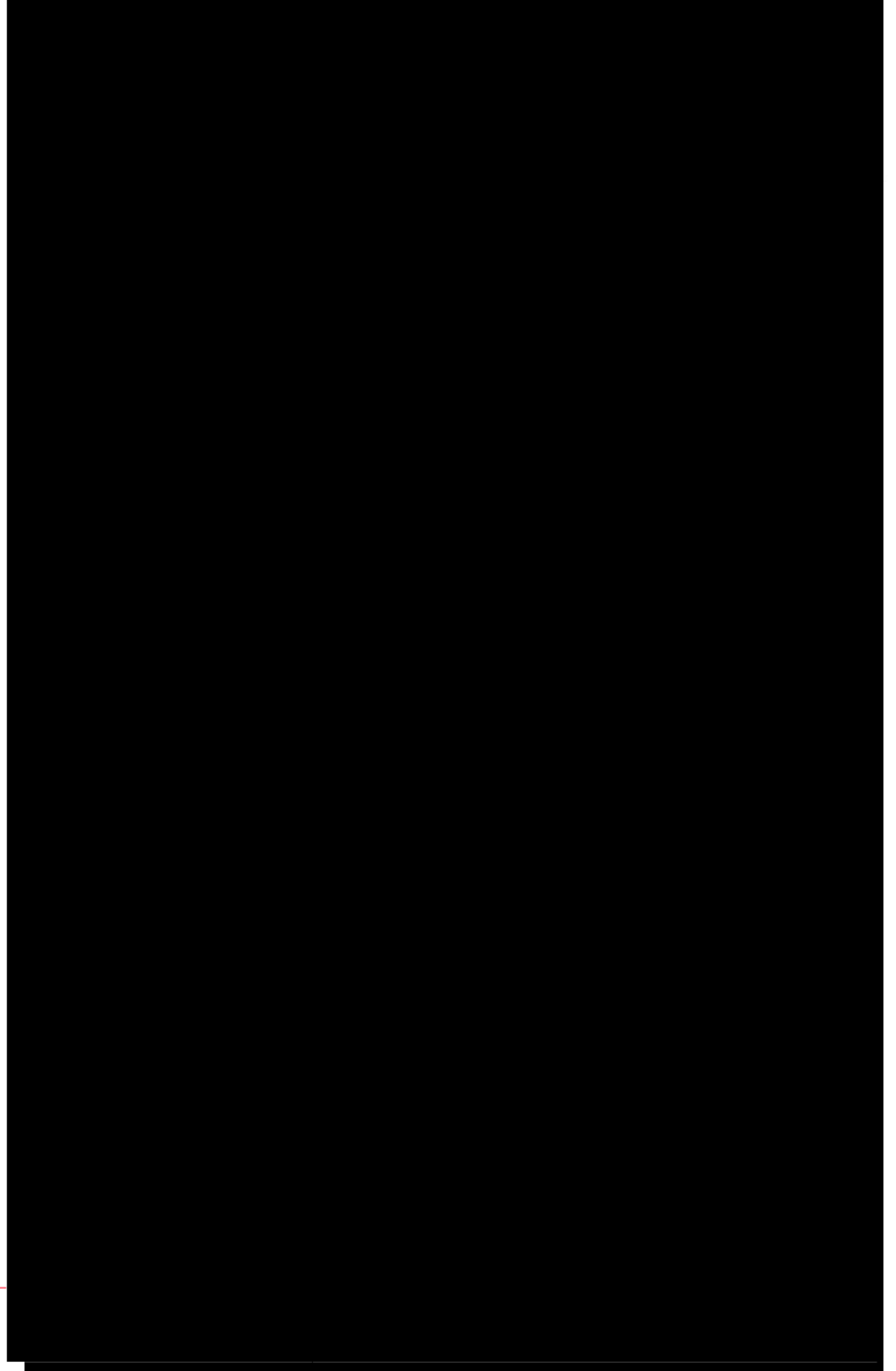
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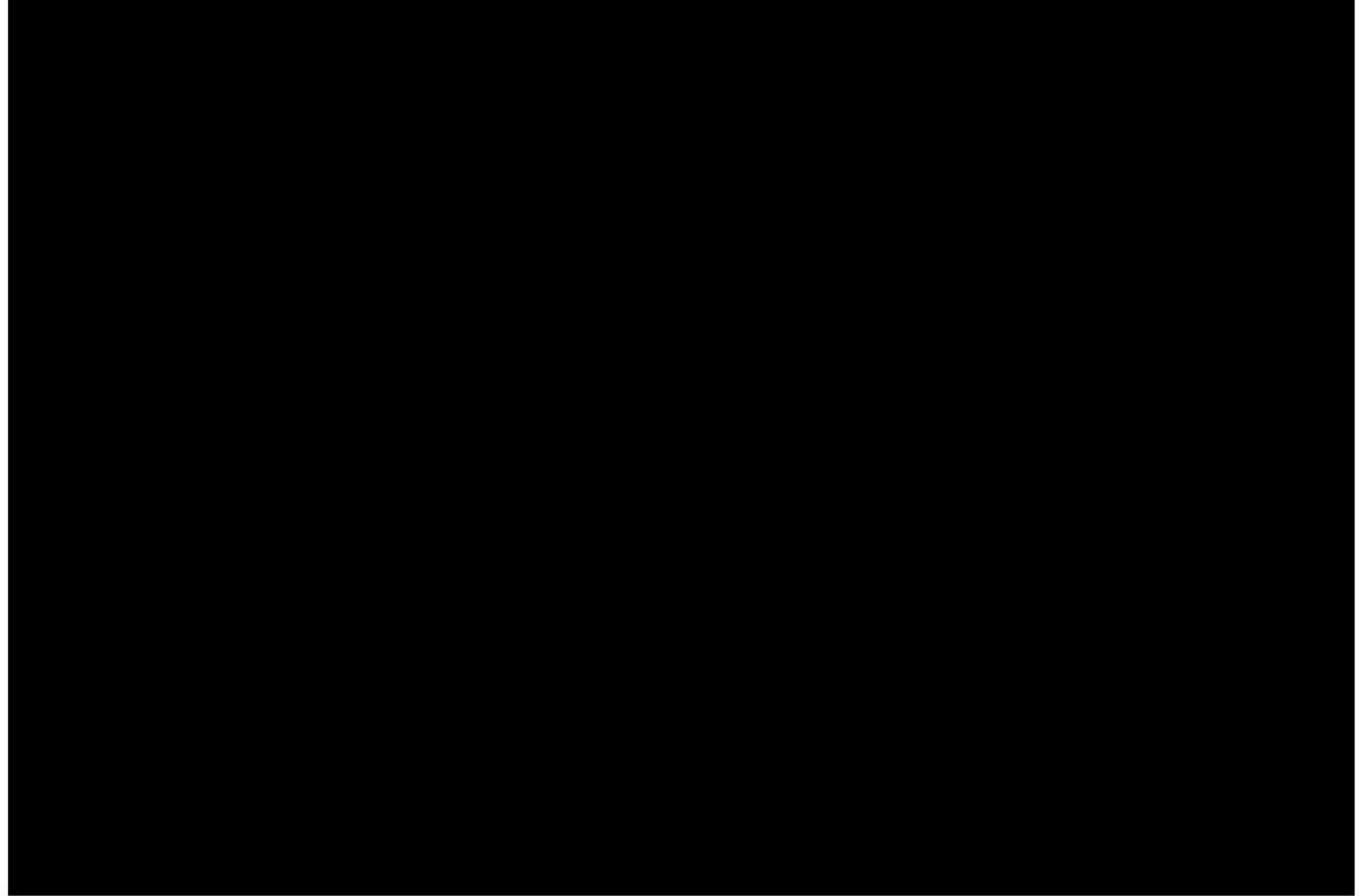
Clause 10 - Legal Professional Privilege

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Clause 17 (c) - Documents subject to Contempt



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Clause 17 (c) - Documents subject to Contempt

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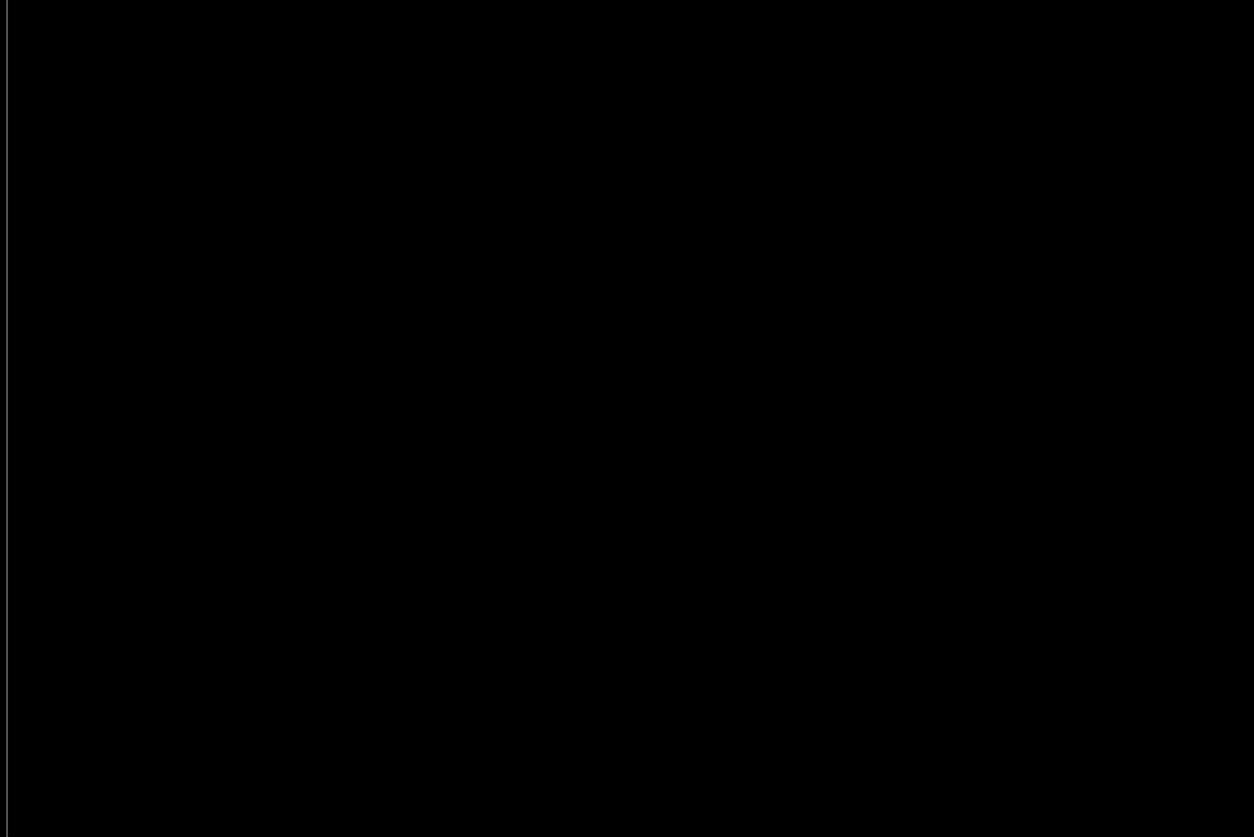
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Clause 17 (c) - Documents subject to Contempt

[REDACTED]

Clause 17 (c) - Documents subject to Contempt



From: [Bruce Hull](#)
To: [DEW:Minister Speirs](#)
Cc: [Electronic Mail](#); [Ian Crossland](#); [Tim Gard](#); [Jason Veliskou](#); [Kendra Clancy](#); [Matthew Shilling](#); [Maggie Duncan](#); [Nathan Prior](#); [Raelene Telfer](#); [Luke Hutchinson](#); [Joseph Masika](#); [Sasha Mason](#); [wedgwood4672@gmail.com](#)
Subject: Re: 20EW0009785: Letter from the Minister for Environment and Water [DLM=For-Official-Use-Only]
Date: Friday, 3 July, 2020 12:00:15 AM

Dear David,

Thank you for this correspondence.

The irony is that even when you were a member of the Marion Council, Council provided cat traps to residents on request. Captured cats were taken to the RSPCA at Lonsdale where they were returned to their owner if microchipped, rehoused or euthanised.

This is still the case and up until quite recently the Marion Council paid for the disposal of such cats captured by residents within the Marion Council area.

Of note, is a fact that cats taken to the RSPCA pound far outnumber dogs significantly.

The reality is that having a bylaw or not, the above said practices continues in Marion and presumably other Councils in SA.

So let's be realistic about this serious environmental and urban issue that the vast majority of Marion residents have cast reasonable judgement on.

Given the prominence that this topic has had in the media and the number of Councils working towards a similar bylaw, perhaps we should return to the proposition by the Marion Council to have a statewide or metropolitan wide approach to deal with this problem consistently and efficiently?

Yours sincerely

Bruce

Sent from my iPhone

On 2 Jul 2020, at 5:41 pm, DEW:Minister Speirs
 <Minister.Speirs@sa.gov.au> wrote:

For Official Use Only

Dear Mayor Hanna

Please find attached a letter from the Minister for Environment and Water, David Speirs MP.

Kind Regards

Office of the Minister for Environment and Water

P (08) 8463 5680

Level 10, 81-95 Waymouth Street, Adelaide SA 5000

GPO Box 1047, Adelaide SA 5001

environment.sa.gov.au

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<20EW0009785_letter.pdf>

Bruce Hull

Warracowie Ward Councillor | City of Marion

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The City of Marion is committed to providing our customers with excellent service. If we can assist you in any way please either telephone (08) 8375 6600 or visit our web site www.marion.sa.gov.au.

THINK BEFORE YOU PRINT

OFFICE OF THE MAYOR

15 July 2020

Rec'd	17 JUL 2020
Reg. No.	
File No.	
Ack.	
Action Officers	/
Response due	



CITY OF
MARION

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Minister for Environment and Water
Mr David Speirs MP
GPO Box 1047
Adelaide SA 5001

Dear Minister Speirs *David,*

RE: State Government commitment to model by-law for roaming cats

Dear Minister,

Marion Council notes with interest the State Government's recent indication that it will progress a model cat management by-law to be used by Councils.

Whilst the City of Marion Cat (variation) By-law was recently disallowed, Council remains committed to achieving a positive outcome with regard to cat control. Your recent announcement provides an opportunity for a state-wide response, which is consistent with what we have been advocating for.

Are you able to share the Government's timeframe for commencing, developing and finalising the by-law? Council is also keen to understand if the model by-law will contain curfew hours, and if not, what approach the Government will take to stop cats roaming at night.

The City of Marion has amassed significant knowledge of this issue during the drafting of the proposed by-law and we wish to formally reiterate our offer to assist the State Government in the drafting of the model by-law and contributing to the development and consultation processes.

Council remains committed to improving cat management and is supportive of a state-wide solution.

I look forward to your response.

Yours faithfully,

Kris Hanna
Kris Hanna
Mayor

The City of Marion acknowledges it is part of Kaurna land and recognises the Kaurna people as the traditional and continuing custodians of the land.



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