



Office of Hon Jim Sutton
Minister of Agriculture
Minister for Trade Negotiations
Minister for Rural Affairs
MP for Aoraki

12 June 2000

Mr Neil Wells
Trustee
Animal Welfare Institute of New Zealand
PO Box 60-208
Titirangi
WAITAKERE CITY

Dear Mr Wells

On 22 November 1999 you wrote to my predecessor enclosing an application on behalf of the Animal Welfare Institute of New Zealand (AWINZ) for declaration as an approved organisation under section 121 of the Animal Welfare Act 1999 (the Act). On 24 December 1999 I responded seeking additional information and you replied on 25 March 2000. I understand that you met with officials from the Ministry of Agriculture and Forestry (MAF) on two occasions and have exchanged correspondence with them.

More recently you wrote to me seeking an early decision on AWINZ's application. I understand that you are anxious to retain the momentum and expertise built up by the Waitakere City Council during the existence of the animal welfare pilot programme it carried out for MAF.

I appreciate the large amount of time you spent on the application and in developing the AWINZ concept. There are benefits to animal welfare in having an organisation such as AWINZ acting as an umbrella organisation.

MAF has advised me that, in its opinion, AWINZ's application meets all but one of the requirements in the Animal Welfare Act 1999. I am advised, however, that I must be satisfied that the application meets all the requirements in sections 121 and 122 of the Act.

In your letter of 25 March 2000, you enclosed a copy of a legal opinion provided to the Waitakere City Council, that argued that territorial authorities have the power to fund animal welfare activities. MAF was concerned that the opinion did not sufficiently canvass the

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requirements of the Local Government Act 1974. Consequently, MAF believed it necessary to obtain advice from the Crown Law Office.

Crown Law has advised MAF that the Local Government Act does not allow a territorial authority to fund an animal welfare organisation or employ animal welfare inspectors. A territorial authority may employ staff only to perform its functions as set out in that Act and may only spend money on matters expressly or impliedly authorised by statute. Crown Law considers that if Parliament had intended a territorial authority to have an animal welfare role then the power could be expected to be found in the Local Government Act or other legislation.

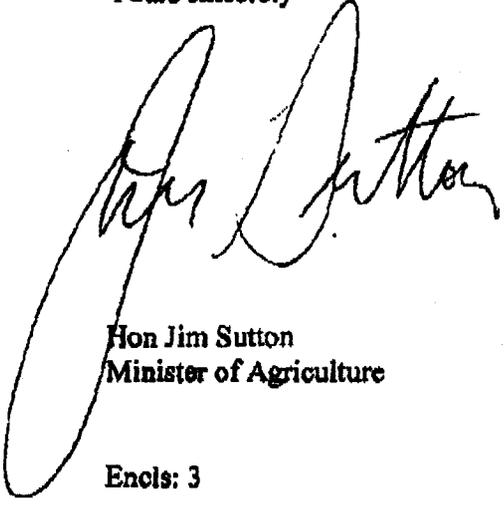
I believe that the opinion given by Crown Counsel is detailed and persuasive and raises an important matter of public policy. I would need to consider whether I should approve a proposal given that I am advised that to do so would be contrary to the law.

I invite you to consider and make a submission on the report I received from MAF, and to clarify any points that you believe have not been understood or taken into account before I make my decision on AWINZ's application. A copy of the MAF report, the opinion from the Crown Law Office and a briefing I received from MAF are enclosed.

After considering the documents you might wish to consider submitting an amended application which clearly shows that territorial authorities would be neither funding animal welfare work nor employing animal welfare inspectors.

If you would like to discuss this letter with me, please contact my office to arrange a mutually convenient time. I have copied this letter together with a copy of the MAF report and the Crown Law Office opinion to the Hon Pete Hodgson as he was interested in your proposal.

Yours sincerely



Hon Jim Sutton
Minister of Agriculture

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