



Animal Welfare Institute of New Zealand

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2 May 2000

Hon Jim Sutton
Minister of Agriculture
Parliament House
WELLINGTON

Dear Minister

Thank you for your letter of 20 April (received 28 April).

We are somewhat perplexed and frustrated to learn that advice from MAF is that the legal opinion provided to you on 25 March 2000 does not give a satisfactory level of confidence that the Waitakere City and North Shore City Councils have the legal authority to fund the proposed arrangements.

We are particularly surprised in view of a letter from MAF Policy dated 28 January 2000 which said—

... MAF believes that it is the responsibility of the Waitakere City Council, which should be knowledgeable about the legislation with which it operates, rather than MAF, to assure the Minister that the proposed arrangement with AWINZ is not ultra vires relevant legislation.

We provided the assurances asked for but went one step further by obtaining an independent legal opinion from a leading law firm that specialises in local government law.

Why has MAF resiled from its earlier view that it is not MAF's responsibility to give you advice in this matter and then question the expert legal opinion that has been obtained?

At the end of the day, should the arrangement be ultra vires (and there has been no legal opinion given to this point that says it is) then it would be Kensington Swan's liability for giving the advice and Waitakere City's for following it. It cannot be MAF's liability if it has sought and obtained the assurances requested.

This particular issue has been debated for over 18 months and considerable expense and time has been expended in providing MAF with documentation. It could have been resolved more than year ago but apparently MAF Policy has chosen a course of action that has frustrated the will of your predecessor, John Luxton, for a seamless transition from the pilot programme to one that would meet the criteria of the Animal Welfare Act 1999.

Further, MAF's procrastination has frustrated your own advice to us on 24 December 1999 that the issues raised should be addressed at the earliest date possible and that you wanted your officials to provide you with a final recommendation on our application as soon as possible in the New Year. We are now 4 months into the year and are still involved in iterative correspondence with MAF Policy.

Just last Friday, David Cunliffe stood in for you as guest speaker at the UNITEC

graduation of the first 15 students to gain the National Certificate in Compliance and Regulatory Control (Animal Welfare). Those students came from the successful pilot programme between MAF and Waitakere City. David spoke in glowing terms of the success of the cooperation between Waitakere City, MAF and UNITEC in seeing this programme and training through to such a successful conclusion. It seems incongruous that even now MAF Policy are continuing with what appears to be a pattern of opposition that defies all reason.

You will of course recall that at the Select Committee stages of the Bill the Select Committee attempted to impede the pilot programme with Waitakere City by making a late recommendation to the Select Committee that clause 105 of the Bill be amended so that inspectors should be directly employed by an approved organisation. You will of course recall that the Select Committee rejected that advice and took the view that there should be flexibility with accountability. The Parliamentary draftsman came back with an acceptable clause that inspectors should be "properly answerable" to the approved organisation. We believe that the application made to you does meet that clause.

It is timely that I record that I occupied a privileged position in being a specialist adviser to the Select Committee during the consideration of the Animal Welfare Bill. I was aware at the time that I needed to be cautious to ensure that I did not have a conflict of interest in that at the same time I was working on the proposal for the Animal Welfare Institute of New Zealand. Before I accepted the temporary appointment with Parliament I declared my interest to Bob Bunch and I understand he discussed it with the then-Chairman of the Committee who agreed there was no conflict of interest. Indeed, when the members of the Select Committee inquired into the reasons behind MAF Policy's late recommendation I was reluctant to make any comment to the Committee because of the risk of a perceived conflict of interest. Your colleague, Pete Hodgson, reassured me that the Committee was capable of determining whether or not there was a conflict of interest in any of the answers I gave the Committee. I do not believe that my position then or now has been compromised.

We believe we meet the criteria of the Act. We believe it is in the public interest that our application be approved. And we believe everyone's interest would be served if we could meet with you at the earliest possible time to resolve any outstanding issues.

Yours sincerely



Neil Wells
Trustee