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From: Mark Neeson
To: nwells
Subject: Re: FW: AWINZ

Neil,

I never received your original message which explains why you never received a response. This is the first time I have seen it.

I suggest that all the letters be addressed to MAF (send them to the Director-General, MAF, PO Box 2526, WELLINGTON, attention myself).

I am not in a position to give you an opinion on the registration point as it raises legal issues on which I will need to seek advice. I propose that you include it in your formal letter.

Hope this helps,

Mark

CC: Bayvel, David

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From: "nwells" <neil.wells@amcom.co.nz>
To: "Mark Neeson (E-mail)" <neesonm@maf.govt.nz>
Date: 24/03/2000 20:27:16
Subject: FW: AWINZ

Mark

I was hoping to catch up with you at lunch today.

When do you think you can give me a reply to me e-mail of a week ago?

Regards
Neil

Neil Wells
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1156 Huia Rd, Huia, Waitakere City 1007, New Zealand

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-----Original Message-----

From: Neil Wells [mailto:nwells@unitec.ac.nz]
Sent: 17 March, 2000 4:03 PM
To: neesonm@maf.govt.nz
Cc: bayveld@maf.govt.nz
Subject: AWINZ

Mark

Since our meeting at Auckland Airport 4 weeks ago Waitakere City has taken on board the tasks you required of them in relation to whether it is infra vires for a territorial authority to expend rating funds on animal welfare. While that could have been answered immediately by the Council's legal section, Council decided to obtain an independent legal opinion from Kensington Swann. That opinion has now come to hand this week and confirms the previous legal opinions sent to MAF Policy in past years.

Where should that letter be sent -- to MAF Policy or direct to the Minister?

I would like to re-visit one other issue arising from our meeting relating to your requirement that a recommendation for approval cannot be considered without evidence of registration under the Charitable Trusts Act.

I ask that you reconsider that requirement. Registration with the Ministry of Commerce is a process that will add months to the application being finalised.

The Act provides that an applicant can be "any organisation" but there is no requirement that the organisation be a body corporate. An "organisation" can be incorporated or unincorporated.

Unlike bodies corporate such as societies and companies, a trust becomes a legal person upon the signing of the trust deed, not from the date it is registered. Many trusts are never registered under the Charitable Trusts Act but are still legal persons.

While AWINZ will register as a charitable trust that is part of a process that leads to approval by Inland Revenue for exemption from filing tax returns and for tax rebates for donations in the hands of donors. Whether "an organisation" is a charity or a for-profit company is not contemplated by the Act. I don't see that this is an issue that goes to the heart of an application.

AWINZ can produce evidence that the trust is in being by providing a signed copy of the trust deed and will give an undertaking that it will be registered with the Ministry of Commerce.

The other issues you raised have been considered and a formal letter will be ready next week.

As our original application was to the Minister, to whom should the supplementary application be addressed?

Waitakere City are awaiting your directions as to where the Kensington Swann letter should be sent.

Regards
Neil

Neil Wells
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CC: "David Bayvel (E-mail)" <bayveld@maf.govt.nz>, "Barry O'Neil (E-mail)" <oneilb@maf.govt.nz>

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