

60

Copies to:

- .. DG .....
- .. Policy .....
- .. Biosecurity .....
- .. Food .....
- .. FMG .....
- .. Operations .....
- .. Finance .....
- .. Legal .....
- .. HR .....
- .. Comms .....
- .. J. Hayes .....

**CABINET FINANCE, INFRASTRUCTURE  
AND ENVIRONMENT  
COMMITTEE**

**FIN (00) 304**

1 December 2000

Copy No: 31

This document is the property of the New Zealand Government. As it includes material for Cabinet or Cabinet Committee purposes it requires particular care, and in accordance with any security classification or other endorsement assigned to it. It is to be released only by persons having proper authority to do so, and strictly in terms of that authority.

**Title** **Animal Welfare Institute of NZ (Inc): Application to be an Approved Organisation, and Associated Legal Issues**

**Purpose** This paper reports on an application received by the Minister of Agriculture from a charitable trust, the Animal Welfare Institute of New Zealand (Inc) (AWINZ), for declaration to be an "approved organisation" under s.121(1) of the Animal Welfare Act 1999 to deliver animal welfare enforcement services, and associated legal issues with possible implications for the Crown.

**Previous Consideration** Nil.

**Summary** Declaring AWINZ to be an "approved organisation" would enable the applicant to deliver animal welfare enforcement services in conjunction with local authorities. Initially, AWINZ proposes to enter into a memorandum of understanding with the Waitakere City Council, a territorial authority (TA), whereby suitable animal control officers of the Council would become animal welfare inspectors. These inspectors would continue to be employed by the Council but would be accountable to AWINZ for any decisions they make and the actions they take. The long-term objective of AWINZ is to seek contracts with other TAs similar to that proposed with Waitakere City Council.

**Baseline Implications** A person at the receiving end of enforcement action by an inspector might successfully defend a prosecution, and could possibly make a claim against the Crown for compensation (paragraph 24 also refers).

RELEASED UNDER THE OFFICIAL INFORMATION ACT

**Legislative Implications**

The Minister proposes that the question of whether TAs should be able to rate for, and fund, animal welfare services be dealt with in legislation arising from the current review of the Local Government Act 1974. This legislation is not expected to be introduced until 2002.

**Timing Issues**

Nil.

**Announcement**

Final approval of AWINZ and the conditions of the approval will be notified in the Gazette in due course.

Final approval of AWINZ will be acknowledged with an appropriate press statement.

**Consultation**

Treasury, Internal Affairs, the Crown Law Office.

The Waitakere City Council fully support the proposal.

The Minister indicates that the proposal has been the subject of consultation with the Minister of Local Government, the relevant coalition consultation Minister, and the Labour caucus.

---

**The Minister of Agriculture recommends that the Committee:**

- a note that the Minister of Agriculture has received an application from the Animal Welfare Institute of New Zealand (Inc) (AWINZ) for declaration to be an "approved organisation" under section 121(1) of the Animal Welfare Act 1999 to deliver animal welfare enforcement services;
- b note that approval of this application would have the effect of territorial authorities (TAs) funding the approved organisation directly, or indirectly, by allowing TA staff and resources to be used to deliver animal welfare services;
- d note that the Minister of Agriculture accepts the advice offered by KPMG Legal, i.e. that the funding of animal welfare enforcement services is not *ultra vires* the powers of TAs;
- e note that the second of two proposed bills to implement the outcome of the current review of the Local Government Act is likely to clarify the legislative position with respect to TAs being able to rate for, and fund, animal welfare services, although this legislation is not expected until 2002;
- f note that it is the view of the Minister of Agriculture that the advantages to animal welfare arising from approving the application outweigh the possible legal risks referred to in paragraph (c) above;

g note that the Minister of Agriculture proposes to approve—*in principle*—the application from AWINZ, pending completion of conditions relating to AWINZ establishing performance and technical standards for inspectors.

Murray Newth  
for Secretary of the Cabinet

COPIES TO:

Cabinet Finance, Infrastructure and Environment Committee  
Chief Executive, DPMC  
B Wilson, DPMC  
Secretary to the Treasury  
Secretary for Internal Affairs [Local Government]  
Director-General, MAF [Agriculture]  
Attorney-General  
Solicitor-General  
Director-General, MAF [Biosecurity]

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT