

Final

14

Ref: P99/504a
Your Ref: MAF277/43

1 September 2000

Peter McCarthy
Crown Law Office
PO Box 5012

WELLINGTON

Dear Sir

INVOLVEMENT OF TERRITORIAL AUTHORITIES IN ENFORCEMENT OF THE ANIMAL WELFARE ACT

Subsequent to your opinion of 9 May 2000 discussions have taken place with Neil Wells and representatives of the Waitakere City Council (WCC). They are interested in exploring the possibility of an agreement under section 37T Local Government Act (LGA) to enable their intended animal welfare operations to proceed. They were asked by our Minister to provide information on how that might be progressed. Both MAF, and Neil Wells and the WCC would also consider whether 37T could provide the means for such a proposal.

Mr Wells and the WCC have provided us with an opinion from KPMG Legal (attached) which addresses the section 37T issue. We have also received from Neil Wells a draft agreement to be made under 37T (also attached). Although not requested to do so, the opinion also addresses your legal opinion. We seek your advice in relation to the section 37T issue with the following questions:

- (a) Can section 37T LGA be used by MAF to enter into the agreement with a territorial authority as proposed by Neil Wells?
- (b) If the answer to (a) is 'Yes' what is your view as to the appropriateness of using section 37T when the Animal Welfare Act specifically does not enable a territorial authority to be an approved organisation?
- (c) Would it be possible and appropriate to have an agreement as proposed under section 37T as a temporary measure if the Government decided that it would promote legislation:

- (i) to amend the Animal Welfare Act and LGA to enable territorial authorities to become approved organisations, or
- (ii) to amend the LGA to enable territorial authorities to contribute resources and funding towards approved organisations?

You are also invited to advise us as to whether anything in the KPMG views on your advice to us dated 9 May 2000 causes you to revise any aspect of your advice.

Yours faithfully

Lin Da Teoh
Solicitor

Encl

RELEASED UNDER THE
OFFICIAL INFORMATION ACT