

22 February 2023

Memo to: Elected Members

Memo from: Governance Advisers

Subject: COUNCIL – 23 FEBRUARY 2023 – LATE ITEM

2. Late Item: Mayor's Report - Submission to Thomas Cawthron Trust Amendment Bill

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Document R27522

A report titled Mayor's Report - Submission to Thomas Cawthron Trust Amendment Bill is attached and to be considered as a minor late item at this meeting.

Section 46A(1)-(6) of the Local Government Official Information and Meetings Act 1987 and Standing Order 9.8 require that agendas are distributed with the associated reports. As this report was not distributed with the agenda for this meeting, it must be treated as a major late item to be considered at this meeting.

In accordance with section 46A(7) of the Local Government Official Information and Meetings Act 1987 and Standing Order 9.12, a procedural resolution is required before a major item that is not on the agenda for the meeting may be dealt with.

In accordance with section 46A(7)(b)(i) the reason why the item was not on the agenda is because it came to hand after the agenda had been distributed.

In accordance with section 46A(7)(b)(ii) the reason why discussion of this item cannot be delayed until a subsequent meeting is because a resolution on the matter is required before the next scheduled meeting of the Council to enable a timely decision to be made.

Recommendation

That the Council

- 1. Considers the item regarding Mayor's Report - Submission to Thomas Cawthron Trust Amendment Bill at this meeting as a major item not on the agenda,***

***pursuant to Section 46A(7)(a) of the Local Government
Official Information and Meetings Act 1987, to enable a
timely decision to be made.***

REPORT R27522

Mayor's Report - Submission to Thomas Cawthron Trust Amendment Bill

1. Purpose of Report

- 1.1 To endorse His Worship the Mayor Hon Dr Smith's submission to the Thomas Cawthron Trust Amendment Bill.

2. Recommendation

That the Council

1. ***Receives the report Mayor's Report - Submission to Thomas Cawthron Trust Amendment Bill (R27522) and its attachment (1118544611-7004); and***
2. ***Endorses His Worship the Mayor Hon Dr Smith's submission to the Thomas Cawthron Trust Amendment Bill (1118544611-7004).***

3. Background

- 3.1 The Thomas Cawthron Trust Amendment Bill, a private bill by Nelson MP Rachel Boyack is currently open for submissions, closing Friday 24 February 2023.
- 3.2 The objects of the Bill are to—
- 3.2.1 clearly articulate the objects of the Cawthron Institute Trust Board (the Trust Board) and the powers conferred on the Trust Board to advance those objects; and
 - 3.2.2 provide for the appointment of a member of the Trust Board nominated by Te Taihu iwi; and
 - 3.2.3 specify the legal liability of the members of the Trust Board; and

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- 3.2.4 update and modernise the governance arrangements of the Trust Board, and consolidate and revise other aspects of the governance and administration of the Trust Board.
- 3.3 I am strongly in support of the amendment which modernises the original Thomas Cawthron Trust Act 1924 and ask that Council endorse the submission.

Author: Hon Dr Nick Smith, Mayor

Attachments

Attachment 1: 1118544611-7004 Submission on Thomas Cawthron Trust Amendment Bill 22Feb2023 [↓](#)

Item 2: Mayor's Report - Submission to Thomas Cawthron Trust Amendment Bill: Attachment 1

22 February 2023

The Chair
Economic Development, Science and Innovation Committee
Parliament Buildings
Wellington

Dear Chair and Members

Thomas Cawthron Trust Amendment Bill

I write to indicate my strong support as Mayor of Nelson for the above bill that strengthens and improves the Thomas Cawthron Trust Act 1924. I have been privileged to be a statutory trustee since 1996 as the MP for Nelson for 24 years and, more recently, as Nelson's Mayor. The bill is a natural evolution of Cawthron's strengthened governance as the Institute has grown in size and importance to Nelson and New Zealand.

Background

The Cawthron Institute is a very special part of New Zealand's science community and a gem for Nelson. It came about as a consequence of the generous bequest of Thomas Cawthron over 100 years ago. The Institute has grown strongly over the past 30 years as a consequence of the science reforms of the early 1990s that enabled independent research institutes to have access to public good science funds on similar terms to Crown Research Institutes and universities. It is particularly important for Nelson due to the city not having a university nor being a home or headquartered city of any of New Zealand's Crown Research Institutes. The Cawthron has developed a global reputation for its science in areas such as marine and freshwater ecology and particularly in the applied sciences associated with aquaculture.

Governance Structure

The growth of the Cawthron Institute led the trustees in the early 2000s to establish a separate board of directors. This model was designed to parallel the structure of a CRI with the Trust providing the equivalent role of the Crown as the owner, represented by Cabinet and a Minister, but the governance role resting with the directors. This approach was formalised by High Court orders in 2003 but it is appropriate that these be transferred into an updated Act. The Bill provides certainty for both the trustees and directors of their roles.

Statutory Trustees

The Bill proposes to extend the statutory trustees from being the Bishop of Nelson, the MP for Nelson and the Mayors of Nelson and Tasman to include an iwi representative. This proposal was put forward at the time of the Te Taihū treaty settlements, but it was not an appropriate change then as Cawthron is not a Crown entity. I subsequently proposed the change as a local MP and it was warmly embraced by all trustees. It is a variation from the intent in

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Attachment 1

Thomas Cawthron's will but noting the inclusion of the Anglican Bishop of Nelson as a statutory trustee, it is not necessary for them to be elected by the general public. The inclusion of a Te Taihu representative on the trust is good for the Cawthron in recognising the role of mana whenua and building a stronger connection between Māoridom and science.

Trustees Remuneration

The Bill as drafted makes explicit that trustees may be paid for their services including for any reimbursements for necessary and reasonable out-of-pocket expenses. It correctly differentiates between trustees who "may" be remunerated and directors who "must" be paid. I am supportive of the clarification in Clause 17 of the Bill but I do not think it is appropriate that either Mayors or MPs, who receive payment as determined by the Remuneration Authority, should receive any additional payment for a role that arises directly as a consequence of their office holding. It might be possible for all trustees to be remunerated and then for these three to donate it back but this is messy, adding compliance and tax issues. It is better to be explicit that remuneration (beyond reimbursement for out-of-pocket expenses) is not intended for these trustees.

I submit that a further clause be added to make plain that should the Trust opt to remunerate trustees, it should not apply to trustees already remunerated for their role. My concern is that without explicitly saying so, the implication is that all or none of the members of the Trust Board be reimbursed for discharging their functions under the Act. Proposed new Clause 17 (1) (c): "There shall be no reimbursement under (b) for members of the Trust Board who are the Mayor of Nelson City, the Mayor of Tasman District or the Member of Parliament for the Electoral District of Nelson."

Conclusion

I hope the committee will see fit to support this amendment bill that is important to ensuring the Cawthron Institute continues to contribute to Nelson and New Zealand science for at least another century. I would welcome the opportunity to make an oral submission.

Yours sincerely



Hon Dr Nick Smith, JP
Mayor of Nelson