



Reference: 20180206

20 June 2018

Dear [redacted]

Thank you for your Official Information Act request, transferred from Crown Irrigation Investments Limited (CIIL), and received by the Treasury on 22 May 2018. You requested:

*“...information regarding the process that enabled the [Crown Irrigation Investments Limited’s] constitution to be changed? By this I mean the meeting at which the constitutional change was approved and who were the parties that voted.”*

On 9 August 2017 Cabinet confirmed the amendment to CIIL’s constitution to allow the company to provide concessionary loans to local authorities. This was released in the subsequent Cabinet Minutes of Decision on 14 August 2017.

Shareholding Ministers subsequently signed a ‘*Shareholders Special Resolution*’ to amend CIIL’s constitution to reflect its expanded mandate.

### **Information Being Released**

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1.	14 August 2017	Cabinet Minute of Decision	Released in part
2.	25 August 2017	Treasury Report – Amendments to Crown Irrigation’s Constitution	Released in part
3.	25 August 2017	CIIL Special Resolution of Shareholders to amend Constitution	Released in full

I have decided to release the relevant parts of the documents listed above, subject to information being withheld under one or more of the following sections of the Official Information Act, as applicable:

- section 9(2)(a) – to protect the privacy of natural persons, including that of deceased natural persons,
- section 9(2)(f)(ii) – to maintain the current constitutional conventions protecting collective and individual ministerial responsibility,

### **Information Publicly Available**

The following information is also covered by your request and is publicly available on the Beehive and CIIL website:

Item	Date	Document Description	Website Address
4.	4 September 2017	Beehive Press Release noting the change to the constitution of Crown Irrigation Investments Ltd	<a href="https://www.beehive.govt.nz/release/new-environmental-focus-irrigation-funding">https://www.beehive.govt.nz/release/new-environmental-focus-irrigation-funding</a>
5.	August 2017	Constitution of Crown Irrigation Investments Ltd	<a href="http://www.crownirrigation.co.nz/publications/">http://www.crownirrigation.co.nz/publications/</a>

Accordingly, I have refused your request for the documents listed in the above table under section 18(d) of the Official Information Act – the information requested is publicly available.

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act.

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

Matthew Appleby  
**Acting Manager – Commercial Operations, Governance and Performance**

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IN CONFIDENCE

CAB-17-MIN-0427



# Cabinet

## Minute of Decision

*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

### Report of the Cabinet Economic Growth and Infrastructure Committee: Period ended 11 August 2017

On 14 August 2017, Cabinet made the following decisions on the work of the Cabinet Economic Growth and Infrastructure Committee for the period ended 11 August 2017:

s9(2)(f)(ii)

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CAB-17-MIN-0427

s9(2)(f)(ii)

EGI-17-MIN-0235

**Crown Irrigation Investments Limited:  
Proposed Amendments to Mandate**  
Portfolio: Primary Industries

CONFIRMED

s9(2)(f)(ii)

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CAB-17-MIN-0427

s9(2)(f)(ii)

Michael Webster  
Secretary of the Cabinet

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**Hard-copy distribution:**  
Cabinet Economic Growth and Infrastructure Committee  
Minister of Internal Affairs

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## COMMERCIAL-IN-CONFIDENCE

**Ministry for Primary Industries**  
Manatū Ahu Matua

**Treasury Report:** Amendments to Crown Irrigation's Constitution

Date:	25 August 2017	Report No:	T2017/2216 B17-0540
		File Number:	CM-1-3-116-1

**Action Sought**

	Action Sought	Deadline
Minister of Finance (Hon Steven Joyce)	Agree the recommendations and sign and return the attached shareholders resolution	Tuesday, 29 August 2017
Minister for Primary Industries (Hon Nathan Guy)	Agree the recommendations and sign and return the attached shareholders resolution; sign and send the attached letter to Crown Irrigation on behalf of shareholding Ministers	Tuesday, 29 August 2017

**Contact for Telephone Discussion (if required)**

Name	Position	Telephone	1st Contact
Kyle Lunman	Senior Analyst, Commercial Operations - Governance and Performance	s9(2)(k) [REDACTED]	N/A ✓
Chris Gregory	Manager, Commercial Operations - Governance and Performance	s9(2)(k) [REDACTED]	s9(2)(a) [REDACTED]
Siobhan Ryan	Manager, Sustainable Resources and Programme Coordination – MPI	s9(2)(k) [REDACTED]	s9(2)(a) [REDACTED]
Dan Bolger	Deputy Director-General, Office of the Director-General - MPI		

**Actions for the Minister of Finance Office Staff (if required)**

**Return** the signed report and the signed attached special resolution to Treasury.

**Actions for the Minister for Primary Industries Office Staff (if required)**

**Return** the signed report and the signed attached special resolution to Treasury.

**Sign** and send the attached letter to Crown Irrigation Investments Ltd. on behalf of shareholding Ministers.

Note any feedback on the quality of the report

**Enclosure:** Yes

**COMMERCIAL-IN-CONFIDENCE****Treasury Report: Amendments to Crown Irrigation's Constitution**

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**Purpose of Report**

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1. On 9 August 2017 as per CAB-17-MIN-0427, Cabinet confirmed the amendment to the mandate of Crown Irrigation Investments Limited (CIIL) to allow the company to provide concessionary loans to local authorities to fund construction costs that directly lead to environmental benefits associated with regional-scale water storage and distribution infrastructure.
2. Cabinet also authorised shareholding Ministers to amend CIIL's constitution in accordance with the above decision.
3. The purpose of this report is to obtain your approval for the adoption of a new constitution for CIIL which reflects its expanded mandate as described in point 1 above.
4. A special resolution of shareholders is attached to this report, along with a copy of the new amended constitution and a letter to the company outlining the changes.

**Background**

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5. CIIL is a Crown Entity Company established in 2013. Its purpose is to co-invest in irrigation schemes, provide grants for irrigation schemes in development, and apply commercial expertise and leadership to irrigation schemes.
6. CIIL's current constitution limits its purpose to the consideration of the long-term economic benefits from the irrigation outcomes.
7. CIIL requested an amendment to its mandate to allow it to provide concessionary loans to local authorities to fund construction costs that directly lead to environmental benefits associated with regional-scale water storage and distribution infrastructure.
8. CIIL expects the expanded mandate will:
  - increase the viability of investment propositions for irrigators;
  - provide CIIL the capacity to finance the construction of infrastructure that directly leads to environmental outcomes;
  - shift the financial burden associated with environmental outcomes to the wider community and the government (by way of concessionary loan to local authority);
  - provide an incentive for local authorities to contribute to regional infrastructure that can result in economic and environmental benefits.
9. Regional councils would continue to set requirements for environmental outcomes through their usual planning processes. CIIL would only provide loans for water storage and distribution infrastructure that have irrigation outcomes, but the infrastructure would not be required to be exclusively for irrigation.
10. The loans would not be available on a wider basis, and decision-making would remain with the CIIL Board.

**COMMERCIAL-IN-CONFIDENCE****CIIL's Constitution**

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11. Following Cabinet's decision, a change to the company's constitution is required to reflect these new responsibilities.
12. Under Section 82 of the Crown Entities Act 2004, following the adoption of a new constitution, a shareholding Minister must present the new constitution to the House of Representatives as soon as practicable.

**Amendments to CIIL's Constitution**

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13. Clause 6 of CIIL's constitution requires updating in order to reflect CIIL's new capability.
14. The recommended amendments and justification for the amendments are set out below.

**Clause 6: Purpose of Company**

15. Following consultation between Ministry for Primary Industries (MPI), CIIL and Treasury, we recommend changing the purpose of the company under clause 6 of CIIL's constitution. CIIL's purpose under its current constitution as set out in clause 6.1 can be found below, with the proposed additional wording highlighted in italics following the second bullet point:

**6 Purpose of Company**

6.1 The purpose of the Company is to enable the development and construction of off-farm regional irrigation infrastructure where the Company identifies irrigation scheme proposals that have the potential to generate long-term economic benefits from irrigation for New Zealand, primarily by:

- co-investing in irrigation schemes;
- *providing loan funding to local authorities to enable local authorities to support the construction of water storage and/or distribution infrastructure associated with irrigation schemes;*
- providing grants to irrigation schemes in development; and
- applying commercial expertise and leadership to irrigation schemes.

16. Furthermore, we propose the following additional wording to Section 6 which provides more specific guidance to the new function as described in clause 6.1 above:

**COMMERCIAL-IN-CONFIDENCE**

- 6.3 When providing loan funding to a local authority to enable the local authority to support the construction of water storage and/or distribution infrastructure associated with an irrigation scheme, the Company:**
- 6.3.1 must be satisfied that the terms of the loan funding provide for the local authority to only use the funding:**
- (a) to support the construction of water storage and/or distribution infrastructure associated with the irrigation scheme (and in particular not to support the irrigation scheme's operating costs once construction is completed); and
  - (b) for the costs of the water storage and/or distribution infrastructure associated with the irrigation scheme that relate to the environmental standards set by the local authority; and
- 6.3.2 will seek to use best practice loan management approaches, subject to the rest of this clause 6.3.**

17. The new constitution does not mention that loans funding should be "concessionary" as this is not necessary to implement the new mandate. CIIL and we agree that the wording permits CIIL to provide loans on non-commercial terms. Also, there is a risk that specifying that loans must be concessionary inhibits CIIL's ability to negotiate the best terms, which might be a mix of commercial and non-commercial terms. We recommend it is better to leave a broad discretion to CIIL to determine how non-commercial a loan should be in all the circumstances.
18. The existing clause 6.3 will become 6.4. The only other recommended change to the Constitution is to define local authority in clause 1.1. which covers both regional councils and territorial authorities as having the same meaning as in the Local Government Act.
19. CIIL, MPI and Treasury are comfortable that the proposed wording reflects the approved changes and that it is consistent with Cabinet's original objectives in establishing CIIL.

**Monitoring**

20. CIIL will continue to provide quarterly reporting, including any developments under its new expanded scope to shareholding Ministers as well as MPI and Treasury as monitors. Treasury and MPI will closely monitor the effectiveness of CIIL's expanded mandate.
21. Cabinet also noted that officials will consider a broader review of the policy settings and instruments that concern irrigation infrastructure development.

**Next Steps**

22. CIIL will update its Statement of Intent (SOI) and Statement of Performance Expectations (SPE). Treasury will work with CIIL to obtain and provide updated versions of these documents to shareholding Ministers once CIIL has made the necessary changes.

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23. Cabinet agreed that shareholding Ministers could announce this change. MPI advises that the Minister for Primary Industries will make the announcement regarding these changes shortly.
24. Under Section 82 of the Crown Entities Act 2004, following the adoption of a new constitution, a shareholding Minister must present the new constitution to the House of Representatives as soon as practicable.

**Recommended Action**

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We recommend that you:

- a **Note** that Crown Irrigation Investments Ltd has been granted an expanded mandate to provide concessionary funding to local authorities for irrigation schemes and
  - Agree/disagree*  
Minister of Finance
  - Agree/disagree*  
Minister for Primary Industries
- b **Agree** to sign the attached special resolution
  - Agree/disagree*  
Minister of Finance
  - Agree/disagree*  
Minister for Primary Industries
- c **Agree** that the Minister for Primary Industries sign the attached letter to CIIL on behalf of shareholding Ministers
  - Agree/disagree*  
Minister of Finance
  - Agree/disagree*  
Minister for Primary Industries

Chris Gregory  
**Manager, Commercial Operations - Governance and Performance, The Treasury**

Dan Bolger  
**Deputy Director General, Office of the Director General, MPI**

Steven Joyce  
**Minister of Finance**

Hon Nathan Guy  
**Minister for Primary Industries**

Debbie Birch  
Chair  
Crown Irrigation Investments Ltd  
PO Box 5177  
WELLINGTON 6145

Dear Debbie

I am pleased to advise you that Cabinet has agreed to amend the mandate of Crown Irrigation Investments Limited (CIIL), to allow the company to provide concessionary loans to local authorities to fund the construction costs that directly lead to environmental benefits associated with regional-scale water storage and distribution infrastructure. Cabinet has also authorised shareholding Ministers to amend CIIL's constitution in accordance with the amended mandate.

Attached to this letter is the amended constitution. CIIL will update its Statement of Intent (SOI) and Statement of Performance Expectations (SPE). Officials will be in contact to arrange for updated versions of these documents to be provided to shareholding Ministers.

Cabinet has agreed that shareholding Ministers can announce this change. Officials will be in contact to arrange timing and other logistics in regard to any announcement.

CIIL will continue to provide quarterly reporting, including any developments under its new expanded scope to shareholding Ministers as well as MPI and Treasury as monitors. Treasury and MPI will closely monitor the effectiveness of CIIL's expanded mandate.

Thank you for your continued commitment to the development and construction of irrigation infrastructure to deliver economic, environment and social benefits to New Zealand.

Yours Sincerely

Hon Nathan Guy  
**Minister for Primary Industries**

cc: Murray Gribben, Chief Executive Officer, Crown Irrigation Investments Ltd,  
PO Box 5177, WELLINGTON 6145

**CIIL Special Resolution of Shareholders to amend Constitution****CROWN IRRIGATION INVESTMENTS LIMITED**  
(the Company)**Special resolution of the shareholders of the Company pursuant to clause 5 of the Company's constitution and section 32(2) of the Companies Act 1993 (the Act)****DATED** **2017****INTRODUCTION**

- A The shareholders of the Company wish to confirm, by introducing express language into clause 6 of the Company's constitution, that the Company's purpose includes providing loan funding to local authorities to support the construction of water storage and distribution infrastructure associated with irrigation schemes.
- B It is proposed that the Company's existing constitution (*Existing Constitution*) be revoked and that the Company adopt a new constitution (*New Constitution*) in the form appended to these resolutions.

**RESOLVED AS SPECIAL RESOLUTIONS**

The shareholders of the Company resolve as a special resolution in writing that:

- 1 The Existing Constitution be revoked.
- 2 The New Constitution be adopted as the Company's constitution.
- 3 Except to the extent otherwise provided for in the New Constitution, the adoption of the New Constitution shall not affect the validity of any subsisting appointment made or other thing done under the authority of the previous constitution.
- 4 The directors of the Company and their delegates (and any person authorised by any of the directors of the Company or any of their delegates) be severally authorised to execute any such document and to do or cause to be done all such further acts and things necessary to give effect to the foregoing resolution and to comply with section 32(3) of the Act.

**Signed** by the shareholders of the Company:

**CIIL Special Resolution of Shareholders amending Constitution**

**THE SOVEREIGN IN RIGHT OF NEW  
ZEALAND acting by and through the  
Minister of Finance:**

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Signature of Minister of Finance

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Date

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**CIIL Special Resolution of Shareholders amending Constitution**

**THE SOVEREIGN IN RIGHT OF NEW  
ZEALAND acting by and through the  
Minister for Primary Industries:**

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Signature of Minister for Primary Industries

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Date

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**CIIL Special Resolution of Shareholders amending Constitution**

**APPENDIX: NEW CONSTITUTION**

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