



## LOCAL GOVERNMENT COMMISSION

DETERMINATION ISSUED PURSUANT TO SECTION 26 OF THE LOCAL GOVERNMENT ACT 2002 AMENDING THE DEFINITION OF 'RESIDENT' IN RESPECT OF THE MEMBERSHIP OF THE OHAI RAILWAY FUND COMMITTEE, AND BENEFICIARIES OF THE OHAI RAILWAY FUND, CONTAINED IN THE FINAL REORGANISATION SCHEME FOR THE SOUTHLAND REGION, AND AS LATER AMENDED ON 16 MARCH 1993.

### BACKGROUND

- (1) In 1989 the Local Government Commission issued the Final Reorganisation Scheme for the Southland Region ("the scheme").
- (2) The Local Government Commission amended the scheme in 1993 following the sale of assets of the former Ohai Railway Board. The 1993 amendment established the Ohai Railway Fund ("the fund"), to be administered by the Ohai Railway Fund Committee ("the Committee"), a majority of whose members must be residents of the district of the former Ohai Railway Board, an area delineated on S.O Plan No. 11924 deposited with Land Information New Zealand. In the 1993 amendment, the Local Government Commission also determined that:

*"(4) The function of the Committee is to make grants or loans or both from the fund:*

- (a) for the benefit of the residents of the district of the former Board; or*
- (b) to any resident of the district of the former Board.*

*(5) "For the purposes of this clause a resident of the district shall be a person, or a descendant of a person whose name has appeared on any parliamentary electoral roll in any year from 1960 to 1990, both years inclusive, and whose address at that time or times was within the area of the district of the former Board."*

- (3) On 6 December 2004 the Committee requested that the Local Government Commission amend the above definition of 'resident' by extending the previously determined timeframe for eligibility by nine years, and extending a further three years following each triennial election of members of the Committee. The proposed amendment will extend the eligibility for membership to the Committee, and, for those that may benefit from loans or grants from the fund.

#### STATUTORY CRITERIA RELATING TO AMENDMENTS TO A REORGANISATION SCHEME

- (4) The statutory criteria relating to the Commission's consideration and determination in respect of amending a reorganisation scheme are contained in section 26 of the Local Government Act 2002, which states:
- (1) *The Commission may issue a determination amending a reorganisation scheme if satisfied that—*
    - (a) *some further or other provision is necessary to enable, or better enable, the intention of the scheme; or*
    - (b) *some provision of the scheme is no longer relevant or appropriate to the intention of the scheme.*
  - (2) *A determination issued under subsection (1) has effect on and from the date specified for this purpose by Order in Council.*
  - (3) *In this section, **reorganisation scheme** means—*
    - (a) *a reorganisation scheme prepared under Schedule 3 and given effect to by Order in Council;*
    - (b) *a reorganisation scheme prepared and given effect to under the Local Government Act 1974.*

#### COMMISSION'S CONSIDERATION AGAINST THE STATUTORY CRITERIA

- (5) The Commission is of the view that the intention of the 1993 amendment to the scheme was to establish a community-administered fund for the benefit of residents of the district of the former Ohai Railway Board, following the sale of the assets of the former Ohai Railway Board.
- (6) The Commission notes that the continued operation of the fund necessitates that the definition of resident contained in clause 33(5) of the 1993 amendment to the scheme is revised to reflect normal changes in the community membership of the district of the former Ohai Railway Board. In particular, the Commission notes that the current criteria precludes 'new residents' who wish to contribute to the community but are ineligible to be nominated for election to, or to receive grants from, the Committee.

- (7) In the Commission's view, the amendment, as proposed by the Committee, offers an enduring solution that will continue to appropriately reflect the original intention of the scheme.

#### COMMISSION'S DETERMINATION

- (8) Pursuant to section 26 of the Local Government Act 2002, the Commission determines that clause 90 of the Final Reorganisation Scheme for the Southland Region shall be amended by omitting subclause 90(5) and substituting the following subclause:

“(5)(a) For the purposes of this clause a resident of the district shall be a person, or a descendant of a person, whose name has appeared on any parliamentary electoral roll in any year from 1960 to 1999, both years inclusive, and whose address at this time or times was within the area of the district of the former board.

(5)(b) From 1 January 2008, the reference in subclause (5)(a) to the year “1999” shall be read as a reference to “2002”, and on 1 January of each third year thereafter shall be amended by the addition of a further 3 years to that reference.”

#### THE LOCAL GOVERNMENT COMMISSION

Grant Kirby (Chairman)

Linda Constable (Commissioner)

Kerry Marshall (Commissioner)

11 February 2005