REPUBLIC OF VANUATU

COMMISSION OF INQUIRY ACT [CAP 85]

Instrument of Appointment – Commission of Inquiry into the matters relating to the budget appropriated for the improvement of public roads on Ambae during the 12th Legislature of Parliament
Order No. 91 of 2023

In exercise of the powers conferred on me by subsections 1(1) and (2) of the Commission of Inquiry Act [CAP 85], I, the Honourable JOHN TARI QETU STILL Minister of Justice and Community Services, make the following Order.

1 Establishment of the Commission

The Commission of Inquiry into the matters relating to the budget appropriated for the improvement of public roads on Ambae during the 12th Legislature of Parliament is established.

2 Appointment of the Commissioners

The following persons are appointed as Commissioners:

(a) Willie Jimmy TABANGARARUA; and

(b) Flora BANI; and

(c) Mathew KENSEN; and

(d) Maurice MICHEL; and

(e) MICHAEL Tamata SIBA.

3 Appointment of the Chairman of the Commission

Willie Jimmy TABANGARARUA is appointed as the Chairman of the Commission.

4 Appointment of the Secretary of the Commission

Flora BANI is appointed as the Secretary of the Commission.

5 Location of inquiry

The inquiry is to be made in Port Vila, at the Ministry of Justice and Community Services Conference room in Port Vila or in such other places as the Commission determines necessary.

6 No public inquiry

The Commission of Inquiry is not obliged to hold any public inquiries.

7 Terms of reference

(1) The terms of reference of the Commission are set out in the Schedule.

(2) The terms of reference of the Commission may be amended or varied by the Minister after consultation with the Commission.

8 Remuneration and cost

(1) The members of the Commission are entitled to the following remuneration:

(a) Chairperson VT500,000; and

(b) Members VT400,000; and

(c) Secretary VT400,000.

(2) The remunerations referred to in subclause (1) must be paid as set out in the Schedule.

(3) The costs for the Commission to carry out its duties under this Order are to be met by the State.

9 Duration of the Inquiry

(1) The Commission has 3 months from the commencement of this Order to compile its finding and submit a complete report to the Minister.

(2) If the Commission is unable to meet the requirements under subclause (1) due to some unforeseen circumstances, the Commission may extend the duration of the Inquiry given that no additional payment is to be made to the members.

10 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 19th **day of** June **, 2023.**

REPUBLIC OF VANUATU Ministry of Justice & Community Service MINISTER Ministère de la Justice et services du Communautée RÉPUBLIQUE DE VANUATU

Honourable JOHN TARI QETU STILL
Minister of Justice and Community Services

SCHEDULE

Terms of Reference

1 Background

As part of the general discussions and agreement during the formation of the 13th legislator, it was agreed that the new government should look into irregularities and illegal activities within each ministries especially the Ministry of Infrastructure and Public Utilities.

After about 3 months in the Office of the Ministry of Infrastructure and Public Utilities ("MIPU"), the Honourable Marcelino Barthelemy (the "Minister of MIPU") received information and copies of documents showing that the former Minister Honourable Jay Ngwele (the "former Minister):

(a) personally gives instructions outside of the legal procurement processes on a number of major construction activities to a particular construction firm; and

(b) collected construction materials from Wilco Vila and Wilco Santo using the Public Works Department (the "PWD)'s accounts for his personal use on his residential projects both in Port Vila and Ambae.

A recent visit to Ambae has also raised many questions about an appropriated budget of 1 billion vatu for the management of public roads on Ambae by the 12th Legislature. It is also evident that the former Minister has diverted most of the funding for other projects of his interest.

With the above findings, the Minister of MIPU seeks for a further investigations into this matter therefore request the Honourable Minister of Justice and Community Service by a letter dated 20 April 2023 to appoint a Commission of Inquiry.

2 The Aim

The commission aims to investigate the legality of the process used by the former Minister in the disbursement of public funds and his act in actually collecting construction materials for his personal use.

3 Objective of the Commission

The objectives of the Commission of Inquiry are to ascertain the functions, activities and actions of the former Minister involved in the process of the miss procurement, illegal diversion of appropriated funds and the fraudulent acts

relating to the collection of construction materials using the PWD's accounts for personal use.

Upon establishing the findings and evidence surrounding the above activities mentioned, the Commission is to submit a complete report to the Minister of Justice and Community Services.

4 Scope of Inquiry

The Commission must have a wide scope of investigation and must review:

(a) all the information and all documents received by the Minister of MIPU relating to the allegations made against the former Minister of MIPU; and

(b) all records, financial or otherwise, of the MIPU relating to the budget appropriated for the management of the Ambae roads; and

(c) the State of Emergency being issued during the COVID 19 period and the impact it has to the government procurement process and to what extend; and

(d) whether in the management of the budget appropriated for the Ambae roads, there has been illegal or improper conduct by the former Minister; and

(e) outline whether a breach to the government procurement procedures has been made; and

(f) such other matters as the Minister directs as the scope of inquiry of the Commission.

5 Sitting

(1) The deliberation of the Commission must be made in private and the report publicly released.

(2) The Commission must conduct its Inquiry in a private manner.

6 Report

The Commission is to provide a full report on the findings and recommendations of this inquiry to the Minister for Justice and Community Services. The Minister is to report and table a recommendation to the Council of Ministers.

7 Renumeration of the Commissioners

The remuneration of the Commissioners is as follows:

(a) the Chairman is to receive a payment of 500,000 vatu; and

(b) the Members are to receive a payment of 400,000 vatu each; and

(c) the Chairman and the members will receive payment of 50% before beginning of the Inquiry, and 50% upon completion of the Inquiry and after presentation of the report to the Minister.

8 Remuneration of the Secretary

The Secretary of the Commission is to receive a payment of 400,000 vatu payable 50% before beginning of the Inquiry and 50% upon completion and presentation of the report to the Minister.

9 Duration of the Inquiry

The Commission has 3 months from the commencement of this Order to compile its finding and submit a completed report to the Minister for Justice and Community Services.

A draft schedule has been developed as a guide to the Commission.

Activity	Milestones											
	Month 1				Month 2				Month 3			
	WK1	WK2	WK3	WK 4	WK 1	WK 2	WK 3	WK 4	WK 1	WK 2	WK 3	WK 4
Sign Contract												
Plan out investigation												
Investigate the PWD/MIPU												
Compilation of the findings												
Consult with MFEM on finings												
Consult with the SLO												
Finalise findings												
Submit report to												

Minister												

10 Amendment

If there be an extension to these 3 months period due to unforeseen circumstances such as a natural disaster that will affect the performance and progress of the inquiry, the Chairperson is to request for approval to the Minister for Justice and Community services. An exception can be done however, no further renumeration will be awarded to all members for the extension of the Commission of Inquiry.