REPUBLIC OF VANUATU

MUNICIPALITIES ACT [CAP 126]

Instrument of Appointment of persons to inquire into certain matters of the Port Vila Municipal Council Order No. 168 of 2023

In exercise of the powers conferred on me by paragraphs 61(1)(a), (b) and (c) of the Municipalities Act [CAP 126], I, the Honourable MAHE RICK TCHAMAKO, Minister of Internal Affairs, make the following Order.

1 Appointment

The following persons are appointed to inquire into certain matters of the Port Vila Municipal Council:

(a) Jeffrey KAITIP; and

(b) Ken MALALO.

2 Terms of reference

The terms of reference of persons appointed under clause 1 are set out in the Schedule.

3 Commencement

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

Made at Port Vila this 30th **day of** August **, 2023.**

Honourable MAHE RICK TCHAMAKO
Minister of Internal Affairs

SCHEDULE

TERMS OF REFERENCE OF PERSONS APPOINTED TO INQUIRE INTO CERTAIN MATTERS OF THE PORT VILA MUNICIPAL COUNCIL

1 Objective

The objectives of the inquiry are as follows:

(a) to inquire into, report and ascertain whether the Town Planning Committee's decision to reverse the decision by allowing the Obama Liu's building to proceed in its construction is legally constitutes and in accordance with:

(i) the Physical Planning Act [CAP 193]; and

(ii) the Ministerial instructions; and

(iii) the Municipalities Act [CAP 126]; and

(iv) the Standing Orders (Municipal Standing Orders, Town Planning Committee Standing Orders, etc); and

(v) other rules and procedures; and

(vi) Regulation orders; and

(vii) By-Laws; and

(viii) the Land Lease Act [CAP 163]; and

(ix) any other relevant Acts and standards.

(b) to inquire into some of the recent decisions and commitments made by the Port Vila City Council (PVCC) management and administration. The decisions since May 2023 and to determine the legality and whether these

decisions followed the due processes. In particular, the following decisions:

(i) commitments made towards entertainment approved by Acting Clerk; and

(ii) increase in remuneration of PVCC staff salaries; and

(iii) other unbudgeted items purchased through the Council.

2 Inquiry report

The inquirers are to prepare and submit a report of the findings of this inquiry to the Minister of Internal Affairs no later than 30th September 2023.

3 Scope of inquiry

(1) The inquiry is to be carried out in accordance with the Municipalities Act [CAP 126]; Physical Planning Act [CAP 193] and any other relevant legislations.

(2) The inquiry is to cover the activities carried out by the Town Planning Unit and the Port Vila City Council in relation to Obama Liu development permit at Numba 2 Wallis.

(3) The inquiry also focus on the administrative and management decisions undertaken by the Council administrations.

4 Procedure when conducting inquiry

While conducting the inquiry, special attention must be made to the following:

(a) whether or not the Planning Committee's decision to reverse the decision to allow the Obama Liu's building to proceed in its construction is legally constituted and in accordance with the provisions of the Municipalities Act [CAP 126]; Physical Planning Act [CAP 193]; and the Land Lease Act [163]; and

(b) whether or not the composition of the Town Planning Committee has been properly mandated by the Port Vila City Council as provided by the Municipalities Act [CAP 126] and PVCC Standing Order; and

(c) whether or not the applicant or the developer or the lease holder adhered to the building permit processes to acquire the building permit, permission to build; and rectified the issues identified in the original engineer's report; and

(d) whether or not, the lease holder that is affected by the encroachment had made notification or informed the Council or developer about the encroachment and whether considerations were given regarding the complaint; and

(e) whether or not the developer or the permit holder has compensated the lease holder affected by the encroachment and the compensation arrangement is compliant to Land Lease Act [CAP 163]and other legislations, including proper survey plans are in place and legalised; and

(f) whether or not the Town Planning Committee or Council has received technical advice from the technical officers (Office of the Town Planning Unit and Clerks) prior to making the decision to reverse its original decision; and

(g) whether or not the other line agencies are also consulted on the decision to reverse the Council's decision and consideration was made on those advices; and

(h) whether or not council's lawyer had provided legal advice on the issue prior decision was made by Town Planning Committee to reverse Council's decision on the Obama Lui's property; and

(i) whether or not Council received the required legal fees for the building permit from Obama Liu's and whether Mr Obama Liu's original plan complied to the legal permit fees paid; and

(j) whether or not there are proper recordings of Council or Town Planning Committee minutes were taken and filed on the decisions made regarding Obama Liu application; and

(k) whether or not Town Planning or Committee had received engineering reports to advice Council before Council made its decisions to reverse its original decision; and

(l) whether any payments approved by the Acting Clerk and Deputy Clerk since May 2023 are budgeted for or executed properly and compliant to financial and HR Regulations of the Port Vila City Council and Municipalities Act (CAP 126); and

(m) whether or not the decision to increase the PVCC staff's salaries are compliant to processes and requirements of the Council and Council had made the decision to increase the salaries.

5 Documentations required

The inquirers are to have free and be given uninhibited access to all documents within the Council including areas under the jurisdiction of the Council in order to assist the inquirers. These include the following:

(a) all necessary supporting documents, records, invoices; receipts and accounts, engineering reports; application documents; records of leases and any amended survey plans; and

(b) recorded meeting sessions and minutes of the council sitting and/or Town Planning Committee meetings regarding the Obama Lui's development application; and

(c) other receipts or recorded conversations of any discussions that may have resulted in the change in Council decisions. This may include interviewing staff who may have sufficient information regarding the reasons for change in the Council decision; and

(d) any written decisions made by the office of the Hon. Lord Mayor, Acting Town Clerk and Deputy Town Clerk to increase the salaries of the PVCC staffs that may cause loss to the council and other related decisions; and

(e) any other documentations required for compilation of the inquirers report.

6 Access

The inquirers are to be given access to all legal documents, correspondence, planning documents and decisions, Council's decisions, instructions, notices and any other information deemed necessary by the inquirers.

7 The Inquiries

The persons who will conduct the inquiries are;

Name	Position	Institution
Ken Malalo	Manager Compliance and Policy	Corporate Services Unit, MOIA
Jeffrey Kaitip	Acting Director	Department of Urban Affairs and Planning, MOIA

8 Cost

The cost for the investigation will be covered by the PVCC in consultation with the Department of Urban Affairs and Planning

9 Renumeration

The investigators are entitled to renumeration of VT200,000 each by the PVCC upon presenting the Minister a written report on this investigation.

10 Duration of Investigation

The Investigation is to be undertaken within 2 weeks from the signing of this Order, complete and submit the report no later than 30th September 2023.