TERMS OF REFERENCE – Government Inquiry Into the Appointment Process for A Deputy Commissioner of Police

BACKGROUND

1. On 3 June 2018, a new Deputy Commissioner of Police was appointed for a term of five years, pursuant to the Policing Act 2008.

2. The Deputy Commissioner of Police is appointed by the Governor-General, on recommendation of the Prime Minister, following a recruitment process run by the State Services Commission. The State Services Commission makes its recommendation to the Minister of Police.

3. A victim advocate has publicly raised concerns about the appointment. Her concerns relate to statements the appointee allegedly made to Operation Austin police investigators about three police officers who were facing sexual violation allegations and were subsequently charged with rape.

4. In light of the concerns raised, Cabinet has agreed to the establishment of a Government Inquiry into the process that the State Services Commission undertook to appoint a Deputy Commissioner of Police. In particular, Cabinet want to determine if all relevant information was sought by the State Services Commission, and whether or not that information was provided to Ministers in order for them to make sound decisions and recommendations.

PURPOSE

5. The matter of public importance that is the subject of the Inquiry and that the Inquiry is directed to examine is the process managed by the State Services Commission in appointing a Deputy Commissioner of Police, to ensure Ministers are fully informed to make sound decisions and recommendations. In particular, the Inquiry is to examine:
   a) what information officials can reasonably be expected to be able to obtain about candidates; and
   b) what information Ministers can reasonably expect to receive about candidates, in order to make sound decisions and recommendations.

SCOPE

6. The Inquiry shall examine, identify, and report on the adequacy of the process that led to the appointment of a Deputy Commissioner of Police, including:
   a) whether all relevant information was properly provided to, or gathered by, the State Services Commission during the appointment process (and if not, why not?);
   b) whether the State Services Commission considered all relevant information gathered, or received, to reach its recommendation;
   c) whether the State Services Commission provided to Ministers all relevant information provided to, gathered by, or otherwise known by it (and, if not, why not?).

7. The Inquiry may consider other matters that come to its notice in the course of its inquiries and that it considers would assist it to deliver on the stated purpose, scope and deliverables.
8. The Inquiry will run for a maximum of six weeks.

Out of scope

9. The Inquiry will not consider whether the appointee is a suitable candidate for the role of Deputy Commissioner of Police.

APPOINTMENTS

10. The member of the Inquiry is: Mary Scholtens QC.

FINDINGS AND RECOMMENDATIONS

11. Without limiting the terms of reference set out above, the Inquiry shall deliver a final report with its findings on any recommendations about the process for appointing future Deputy Commissioners of Police. Such recommendations may concern legislative, administrative, policy, practice, or procedural changes.

PRINCIPLES OF THE INQUIRY

12. In all of its work, the Inquiry shall act independently, impartially, and fairly.

13. In accordance with the Inquiries Act 2013, the Inquiry may make findings of fault, but has no power to determine the civil, criminal, or disciplinary liability of any person. It may, however, make recommendations that further steps be taken to determine liability.

COMMENCEMENT OF WORK AND REPORTING REQUIREMENTS

14. The Inquiry will commence on 20 August 2018. The Inquiry may begin considering evidence from 20 August 2018. The Terms of Reference have been published in the New Zealand Gazette.

15. The Inquiry is to issue its final report, containing findings and recommendations, in writing no later than six weeks from its establishment date.

16. The Inquiry may issue an interim report or reports of findings and recommendations.

17. If the Inquiry identifies issues which may affect its ability to deliver a final report within six weeks of its establishment it shall notify the appointing Minister as soon as possible with a view to identifying an appropriate solution, which may include (but is not limited to) an extension of time.