

**INQUIRY INTO UNAUTHORISED  
RELEASE OF MINISTRY OF PACIFIC  
ISLAND AFFAIRS BRIEFING PAPER**

**Wellington  
July 2010**

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## INTRODUCTION AND ACKNOWLEDGEMENTS

On 22 June 2010 I was asked to undertake an independent inquiry into the possible unauthorised release of a Ministry of Pacific Island Affairs (MPIA) briefing note to the Minister of Pacific Island Affairs on 2010 Budget proposals involving the Auckland-based Pacific Economic Development Agency (PacEDA).

The background to the inquiry is that the Budget announced on 20 May 2010 included an appropriation of \$4.8 million, spread over four years, to support various activities aimed at boosting the social and economic development of Pacific communities in New Zealand. The announcement drew immediate questions and criticism from the Parliamentary Opposition and Pacific commentators as to the manner in which, and the grounds on which, PacEDA had been selected to oversee or run these programmes. A briefing note sent from MPIA to the Minister of Pacific Island Affairs on 25 March 2010 expressed concerns about PacEDA's suitability and qualifications for the assignment and raised questions about some aspects of the proposals. This paper came into the possession of a Radio New Zealand journalist and was drawn on in an interview on Radio New Zealand's "Morning Report" programme on 17 June 2010.

A copy of my Terms of Reference is attached at Annex A to this report. In brief, I was required to:

- inquire into the possible unauthorised disclosure of the briefing note and ascertain who was responsible;
- review the adequacy of the Ministry's controls on sensitive information; and
- recommend what steps should be taken to prevent any future unauthorised disclosures of MPIA information.

By way of a general comment, the difficulties created for public service departments suspected of leaking sensitive material to the press can be significant. Not only do unauthorised disclosures damage levels of trust and confidence between the agency and its political masters, they generate mistrust and suspicion among agency staff. They also put a question mark over the professionalism and impartiality of the public service. A high level of political and public confidence in the neutrality and reliability of public service departments is important in both a reputational and an operational sense.

The Chief Executive of MPIA made it clear at the outset that he wanted the inquiry to be comprehensive and rigorous. He instructed all MPIA staff to cooperate fully with me.

The exercise took place over the period 22 June to 2 July 2010. In that time one or more interviews were held with 31 people, including all those who had had some involvement in the preparation of the paper or were known to have seen it prior to 17 June. A list of people interviewed is attached at Annex B. Most of the interviews were conducted in person, the remainder by telephone. Twenty-three of the interviewees were staff members of the Ministry of Pacific Island Affairs; two were Treasury officers; one was from the Office of the Minister of Finance; two were from

the Department of the Prime Minister and Cabinet; and three worked in the Office of the Minister of Pacific Island Affairs. I also spoke with the head of PacEDA's office in Auckland.

I reviewed a large number of documents and papers (see Annex C) and participated in two MPIA staff meetings. An examination was made of all relevant email, facsimile and electronically stored document records as well as of MPIA's telephone log. I was briefed on the MPIA's rules and procedures governing the handling of sensitive information and dealings with the news media. I did not interview the Radio New Zealand journalist who came into possession of the briefing note for the reason that he had already declined to identify the source of the leak.

I wish to record my thanks to all interviewees for giving freely of their time and views.

Neil Walter  
Wellington

July 2010

## EXECUTIVE SUMMARY

It seems clear that the interview carried on Radio New Zealand on 17 June 2010 was based on the MPIA briefing note submitted to the Minister of Pacific Island Affairs on 25 March 2010. Supplementary information about the PacEDA proposals might well have come from PacEDA itself, but the focus of the interview with Radio New Zealand journalist Richard Pamatatau was the Ministry's advice to the Minister of Pacific Island Affairs.

I regard it as highly unlikely that the 25 March briefing paper would have come into the possession of the Radio New Zealand journalist by accident, or that MPIA's electronic document systems would have been accessed from outside the Ministry.

I therefore conclude that there was a deliberate and unauthorised disclosure of the briefing note.

Notwithstanding the number of interviews held, the documents reviewed and the audit of telephone and electronic document logs I have been unable to arrive at any firm conclusions as to either the manner in which the leak took place or who was responsible for it.

It seems to me highly improbable that the leak would have come from the Treasury, the Office of the Minister of Pacific Island Affairs, the Department of the Prime Minister and Cabinet or the Office of the Minister of Finance.

Although all this points to the possibility that an MPIA staff member was responsible for the leak, I have not been able to find any evidence that this was the case.

I am satisfied that all MPIA staff were aware of the rules surrounding the handling of official papers and that no staff member would have been in any doubt as to the political sensitivity of the 25 March briefing paper. In other words, if an MPIA staff member was responsible for the leak, it would have been a deliberate breach of the department's rules and the provisions of the officer's employment contract.

I recommend that the Chief Executive of MPIA keep the file open on this incident against the possibility that further information will come to light that will help identify the person responsible for the leak.

I make two recommendations on steps that could be taken to deter any future unauthorised disclosures of MPIA information. First, while the MPIA's guidelines and instructions on the handling of official papers and on dealings with the press are adequately covered in the various manuals available to all staff, I recommend that they be brought together and issued as a consolidated reminder at, say, six monthly intervals. As noted below, the Ministry does not handle classified or politically sensitive papers on a regular basis and it is important that staff know how to maintain the security and safety of the paperwork around issues such as the PacEDA budget proposals when they do arise.

Second, the MPIA's electronic document system – like those in many agencies – has developed over a long period of time in a rather piecemeal fashion. Changes and extensions of the system have generally been on an incremental and ad hoc basis. The system is in need of consolidation and improvement. Moreover the rules around the retrieval, filing and storage of documents are not well understood by staff. These problems have been recognised by the Ministry for some time, and some headway has been made towards an improved document management system. Securing the resources for a comprehensive upgrade has however been a problem. I recommend that a thoroughgoing overhaul of MPIA's IT systems and related staff training arrangements now be given priority.

## BACKGROUND

In this section I outline the background to the unauthorised disclosure of the 25 March MPIA briefing note.

A series of meetings and discussions involving inter alia the Minister of Finance and his staff and representatives of various Pacific Island groupings took place in late 2009 and early 2010 on the subject of how the government could best support the economic and social development of New Zealand's Pacific Island communities. One of the organisations involved in those exchanges was the Auckland-based Pacific Economic Development Agency (PacEDA). Arising from those discussions, PacEDA in March 2010 submitted a number of formal funding proposals to the Office of the Minister of Finance. The proposals covered five programmes at an estimated cost of \$4.8 million, spread evenly over four years. The programmes, largely focused on Auckland, encompassed a scheme to boost skilled employment, leadership training, a "Buy Pacific" exposition, a range of cultural activities and a community development initiative.

The Minister's Office referred the proposals to the Treasury on 17 March 2010 with a request that they be included in the formal budget process for consideration by the government. Lacking background information on the proposals, the Treasury sought details from MPIA officials. MPIA officials however had no knowledge of the budget bid. Following a meeting with his Minister on 18 March, the Chief Executive of MPIA instructed his staff in Wellington and Auckland to gather information about the proposals and prepare a briefing note for the Minister of Pacific Island Affairs.

This responsibility fell to a staff member at MPIA's Auckland Office, working in collaboration with the Wellington-based Policy and Research Division of the Ministry. The Ministry's Governance Division, which had responsibility for the final clearance of all papers going to the Minister, was also brought in on the exercise. Thus there were 5 Wellington-based staff and one Auckland-based staff member directly involved in working up the briefing paper for the Chief Executive's signature. Three further members of the Auckland Office had some input at an early stage of the discussions as to what line the briefing paper should take and were privy to the final outcome.

Using information obtained locally together with some material provided by Wellington-based staff, the Auckland Office of MPIA produced a first draft of the briefing note on 24 March. As the draft was reworked and refined in Wellington overnight and the following day, a number of exchanges took place by video conference, email and telephone. On the afternoon of 25 March the briefing note was signed off by the Chief Executive and sent to the Minister's Office.

The first version of the briefing note was held on the personal drive of the Auckland staff member who held the pen. The draft was subsequently placed on the Auckland Regional and the (Wellington) Governance document storage systems, both of which had restricted access (to Auckland staff and members of the Governance and Policy

and Research Divisions respectively). Accompanying the draft briefing note was the summary business case submitted by PacEDA in support of its budget proposal.

In hindsight, the briefing note should have been classified “BUDGET SECRET” from the outset. I am told that a budget-in-confidence restriction was placed on the initial draft by its author. This however did not survive into the second draft version. It was unusual for MPIA staff to be in possession of Budget documents, and obviously the usual strictures were not well known. There was moreover real pressure to get the briefing note compiled and submitted to the Minister before the Treasury’s Budget process deadline of 25 March.

Also on 25 March, MPIA placed the briefing paper and business case on the Treasury’s Crown Financial Information System (CFIS), in order to enable the Treasury to process the proposal in the context of the 2010/11 Budget.

On 26 March, treating the final document as just another briefing paper for the Minister, Wellington staff followed the standard practice of putting it on the MPIA shared drive - which meant that it quickly became available to all staff members. This practice is aimed at ensuring that all staff are kept informed of issues - and the MPIA position on them - in real time.

The Treasury recommended that the PacEDA proposal should be considered as a new non-departmental output class (NDOC) – ie kept separate from MPIA’s operational budget. On 31 March, Budget Ministers gave preliminary approval to the proposal under the government’s “Emerging Priorities” contingency fund.

On 31 March, MPIA’s Chief Executive discussed the briefing note in a meeting with the Minister of Pacific Island Affairs. The possibility was raised of a meeting with the Minister of Finance, but this did not eventuate. Indeed, although it was entered on the Treasury’s CFIS system on 25 March, the briefing note was not forwarded to the Minister of Finance’s Office until mid-June.

On 1 April, MPIA’s Finance Manager met with the Minister of Pacific Island Affairs to discuss the budget process as it affected MPIA. This meeting was of a technical nature – it did not extend to the PacEDA proposal - and was not attended by MPIA’s Chief Executive.

In early May, MPIA’s Communications Unit began preparing speaking notes and draft answers to possible questions about the PacEDA appropriation for use by the Minister when the Budget was announced. This work involved the two members of the Communications Unit.

On 19 April the PacEDA proposal was formally approved by the Cabinet (CAB Min (10) 13/4(36)). It was announced as part of the government’s 2010 Budget on 20 May.

On 17 June the contents of the Ministry's briefing note of 25 March were disclosed by a journalist on Radio New Zealand's "Morning Report" programme.

I note here that from the outset there was considerable uncertainty about the detail of the PacEDA proposal – for example, just what each programme entailed and whether it was to be a 3 or 4 year arrangement. There were also differing views as to how the programme would be administered and what PacEDA's and MPIA's respective roles would be. It is clear that there were gaps in communication among the various government agencies and offices involved in the exercise. These issues are not however directly germane to my inquiry and I do not deal with them in any substantive way in this report.

For the same reason, I have not given close consideration to events subsequent to 17 June. I should however note for the record that a series of meetings and discussions among officials and with PacEDA and other agencies (including the Pacific Business Trust) is now underway on the development of purchase agreements and monitoring frameworks for the five programmes, based on public service contracting rules and guidelines issued by the Treasury, the Office of the Auditor-General and the Ministry of Economic Development.

A listing of key dates in this matter is given in Annex D to the report.

## REPORT

The focus of this inquiry is the handling of the MPIA's briefing note to the Minister in the period 25 March 2010 (when it was submitted to the Minister's Office) to 17 June 2010 (when it was drawn on in Radio New Zealand's Morning Report programme).

I have included in this report some background information about events leading to the preparation of the briefing paper in order to set the context for its unauthorised disclosure.

It seems certain that the journalist who broke the story on 17 June had a copy of the actual 25 March briefing note. I base this assertion on references to the paper made in the interview itself and on a report of a conversation between the Office of the Minister of Pacific Island Affairs and the producer of Morning Report on 16 June. Whether the paper was received by facsimile, by email or in hard copy is not known. When approached by an official in late June the journalist concerned declined to comment on the nature of the leak or to reveal his source.

A large number of people had access to the briefing paper before 17 June. The fact that it was loaded on to the Ministry's shared drive system in late March meant that it could have been accessed by any MPIA staff member. Moreover, copies were held by the Treasury, the Department of the Prime Minister and Cabinet, the Office of the Minister of Pacific Island Affairs and – at a later date – the Office of the Minister of Finance.

I have considered the possibility that the document was mislaid rather than deliberately leaked. MPIA records indicate however that only a small number of staff (all of whom had a legitimate reason to have done so) had taken printed copies of the final briefing note. Only one staff member told me that she had taken the paper out of the office, and she is confident that no-one outside the Ministry would have had access to it. The electronic audit did not point to any accidental copying of the document in question to an outsider. Staff in the Treasury, Ministerial Offices and the Department of the Prime Minister and Cabinet are well trained and experienced in handling sensitive papers and are most unlikely to have been the source of any accidental leak. MPIA staff were aware of the Ministry's rules regarding the protection of official information in general and, from my discussions with them, were left in no doubt as to the sensitivity of this particular paper. Thus, while the accidental disclosure of the paper cannot be entirely ruled out, it seems to me a most improbable explanation.

Equally, I am told that it would be "virtually impossible" for someone outside the Ministry to have hacked into MPIA's electronic documents system and passed the briefing note to the Radio New Zealand journalist.

I therefore conclude that there was a deliberate and unauthorised disclosure of the briefing paper. In considering who might have passed the information on to Radio New Zealand, I have taken into account considerations of likely motivation as well as opportunity.

On motivation, there is no doubt that the manner in which PacEDA were selected to run the new programmes of economic and social assistance to the Pacific Island community caused widespread unease, including among some MPIA staff. Not only was MPIA unaware of the proposal until the Treasury was asked to include it in the budget process, but there are detailed Treasury, Ministry of Economic Development and Office of the Auditor-General instructions and guidelines on the processes to be followed before a service provider is selected or procurement agreements entered into. These processes involve a careful analysis of the objectives of the programme, how milestones will be specified and success measured and what the reporting requirements, performance standards and monitoring and evaluation arrangements will be. It is unusual for a service provider to be designated, or even indicated, before the completion of these processes. And as the briefing note indicates, some concern was felt among MPIA staff as to PacEDA's ability and suitability to oversee or run the new programmes.

I find it difficult to imagine that anyone in the Treasury, the Department of the Prime Minister and Cabinet or the Offices of the Minister of Pacific Island Affairs and the Minister of Finance would have had any reason to want to see the briefing note released to the news media.

On opportunity, it would have been theoretically possible for any of the 22 staff who handled the paper (in MPIA, the Treasury, the Department of the Prime Minister and Cabinet and the Offices of the Minister of Pacific Island Affairs and Minister of Finance) to have passed a copy to Radio New Zealand. Since the document was placed on MPIA's shared-drive system as soon as it was finalised, it could equally have been accessed by any member of MPIA's staff. Thus a total of some 53 people could have had access to the briefing note before 17 June. (I note below that in this respect the Ministry's handling of the paper left something to be desired - even acknowledging the difficulty of putting together, at very short notice, a briefing note on an issue of this complexity and political sensitivity.) MPIA document storage records indicate however that only staff members involved in the preparation of the briefing note accessed it. I am told that no MPIA staff member involved in the PacEDA issue has left the Ministry in recent weeks.

The above analysis leaves open the possibility that an MPIA staff member with a direct or indirect involvement in the preparation of the briefing note took it on himself or herself to pass a copy of it to Radio New Zealand – presumably thinking that it was less important to follow MPIA and public service rules than to get this information into the public arena.

Nothing however arose during my interviews with MPIA staff that would confirm that this was the case. All the MPIA staff members I interviewed denied categorically that they had been responsible for the leak, and none offered any information as to who might have released the note. My examination of the MPIA telephone log and records of electronic document use did not point to any unusual or suspicious activity. Thus, the results of the first part of my inquiry are inconclusive. I recommend however that the Chief Executive of MPIA keep open the file on this incident against the possibility

that further information may emerge that will help identify the person responsible for the unauthorised disclosure.

## **PROTECTION OF DOCUMENTS: RECOMMENDATIONS FOR THE FUTURE**

The Ministry of Pacific Island Affairs is a relatively small agency which in the normal course of events handles only a small number of classified or politically sensitive documents.

The Ministry does however provide an appropriate level of instruction to its staff on the standards of conduct expected of them in regard to the protection of sensitive information. Standard public service guidelines and requirements are contained in the Ministry's "Guide to the Ministry" and Administration Manual as well as in all its employment agreements. For example, the attention of all staff is drawn to the laws relating to government information and to the need to keep sensitive information secure and safe at all times. Staff are reminded that information belonging to the Ministry may not be shared with others except for specific business reasons. There is specific reference to the importance of not revealing to the general public the nature of advice given to the Minister or any other information gained in the course of official duties. Only the Chief Executive and the Manager, Communications are authorised to speak to media contacts on the Ministry's behalf. At a more general level, staff are required to comply with the Public Service Code of Conduct and State Services Standards of Integrity and Trust.

On the handling of information, staff are instructed to place any MPIA documents of general interest to staff on the Ministry's shared drive system. They have their own drive and a limited number of unit drives with restricted access on which to place more sensitive material.

I was told by a number of people I interviewed that the Chief Executive frequently uses staff meetings to remind staff of the importance of respecting these rules and guidelines. In the case of the 25 March briefing note, he went out of his way to stress the sensitive nature of the advice given to the Minister and the need to keep it in-house.

I came across what seem to me to be two lapses in the handling of the 25 March briefing note. First, it was placed on the Ministry's shared drive – thereby giving access to all MPIA staff – once it was signed off by the Chief Executive. This was standard treatment for briefing notes to the Minister and other policy papers of general interest to MPIA staff. It would probably not have happened had the paper been given a formal classification such as BUDGET SECRET. With the benefit of hindsight, the briefing paper should have been kept on the restricted drives of the three units – later four, when the Communications Unit became involved – so that it was accessible only to those staff members required to work on it.

Second, once the Budget had been announced the paper was used in the Auckland Office for a training discussion involving two relatively new staff members. Obviously it made for an interesting and topical case study in the context of the mentoring programme being run for the two staff members. Given the political

sensitivity of the paper, however - and although I have no reason at all to think that advantage was taken of this situation - this seems to me a rather questionable decision. A more prudent course of action would have been to treat the paper on a “need to know” basis.

Because the Ministry does not often handle classified papers, it is important that the rules and guidelines for the classification and handling of sensitive papers be kept in front of staff so that when it has to deal at short notice with an issue such as the PacEDA budget proposals, standard procedures are adhered to.

**I recommend that the rules and guidelines for handling sensitive material be brought together from the various documents and manuals and circulated to MPIA staff as a reminder every, say, six months or so.**

The second area where improvements could be made is in the MPIA’s IT systems themselves, which as a result of years of rather ad hoc and incremental growth are in urgent need of consolidation and upgrading. The Ministry’s documents are spread over a number of drives. All users have a home or personal drive to which they alone have access. Regional drives are in place at the three MPIA Offices, with access restricted to staff in the Office concerned. (These are used where collaborative work on a document is required at one location.) There is a Ministry-wide shared drive to which all MPIA staff have access. And four of the Ministry’s units (Governance, Human Resources, Finance and Chief Executive’s Office) have drives to which they alone have access.

A start has already been made on overhauling the current systems, but it has proved difficult to secure the necessary resources to carry the upgrade through to completion. Information retrieval and version control are two areas requiring improvement. The move to a full Windows system needs to be completed, the current document management systems rationalised and the MPIA intranet made a more useful internal communication tool.

Work is also underway on an improved induction and training process for MPIA staff. It is important that all staff be conversant with the Ministry’s record management policies and procedures so that accurate and full records are kept of all activities and transactions. My impression is that levels of understanding of the IT system are currently uneven around the Ministry. Proper controls need to be exercised over access to, and distribution or destruction of, all official documents.

**I recommend that priority be given to the review of the Ministry’s electronic document and record management systems and to the training of staff in their use.**

## ANNEX A

### TERMS OF REFERENCE

#### **Terms of reference for investigation into possible unauthorised disclosure of a briefing on Pacific Economic Development Agency**

##### ***Introduction***

In 2010 Budget \$4.8 million was allocated to the Pacific Economic Development Agency (PEDA) for additional economic development activities for and with Pacific communities in Auckland.

The Ministry of Pacific Island Affairs (the Ministry) prepared a briefing for the Minister of Pacific Island Affairs dated 25 March 2010 outlining the opportunities, implications, risks, and risk management strategies as part of its duties to support Ministers of the Crown. The briefing was shared with Treasury officials and staff of the Minister's office. It was also subsequently made available to staff of the Office of the Minister of Finance.

An item on Radio NZ on 17 June 2010 appeared to be based on the briefing paper or information from details contained in the briefing paper. This investigation has been commenced as a result of concern over the possible unauthorised disclosure of the briefing paper.

##### ***Terms of reference***

The Chief Executive of the Ministry of Pacific Island Affairs will appoint an independent person to:

- inquire into the possible unauthorised disclosure of the briefing paper or information relating to the briefing paper, including who was responsible for the unauthorised disclosure; and
- examine whether the Ministry had adequate systems and controls in place to protect sensitive Ministry information; and
- make any recommendations that could be taken to deter future unauthorised disclosures of Ministry information;

and will report on the findings of the investigation in accordance with the terms of reference to the chief executive.

## **ANNEX C**

### **LIST OF DOCUMENTS REVIEWED**

MPIA briefing note of 25 March 2010  
Exchanges of emails 18 March to 17 June 2010  
Internal file notes 18 March to 17 June 2010  
Budget Questions and Answers briefing papers  
Key Budget messages paper  
Parliamentary Questions and Answers papers  
PacEDA project briefs and budget proposal  
Companies Office papers on PacEDA  
Miscellaneous correspondence  
Transcript of 17 June 2010 Morning Report interview

## ANNEX D

### KEY DATES

- September/ October 2009** Minister of Finance meets with various Pacific Island groupings, including Pacific Islands Chamber of Commerce and Auckland Pacific Development Forum
- 10 December 2009** Minister of Finance is guest speaker at launch of the Auckland Pacific Economic and Social Transformation Agenda (APESTA)
- 19 February 2010** Minister of Finance and Peseta Sam Lotu-liga (MP for Maungakiekie meet with Pacific leaders to discuss APESTA initiatives
- 16 March 2010** JR Pereira of PacEDA submits budget proposals to Office of Minister of Finance totalling \$4.8 million over four years
- 17 March 2010** Office of Minister of Finance refers proposals to the Treasury for inclusion in 2010 Budget proposals
- 18 March 2010** The Treasury contacts MPIA seeking further information about the proposals. Chief Executive of MPIA meets with Minister of Pacific Island Affairs to discuss PacEDA's budget proposals
- 18-25 March 2010** MPIA gather information from various sources and prepare briefing note to Minister
- 25 March 2010** MPIA submits briefing note to Minister which identifies risks and issues around the proposals and offers suggestions as to the way ahead. Briefing note and PacEDA's summary of proposals is provided to the Treasury and loaded on to the CFIS system
- 31 March 2010** Chief Executive of MPIA meets again with Minister of Pacific Island Affairs. Budget Ministers meet to consider Budget proposals.
- 1 April 2010** MPIA officials meet briefly with Minister of Pacific Island Affairs to discuss budget process
- 19 April 2010** Cabinet approves PacEDA budget proposals (CAB Min (10)13/4(36))
- 21 May 2010** Budget announcement sparks questions in Parliament about the PacEDA appropriation
- 17 June 2010** Radio New Zealand reporter on "Morning Report" programme reveals contents of MPIA's briefing note of 25 March 2010.

## **ANNEX E**

### **GLOSSARY OF TERMS**

<b>APESTA</b>	Auckland Pacific Economic and Social Transformation Agenda
<b>CFIS</b>	Crown Financial Information System (used by the Treasury to store and process budget information)
<b>MPIA</b>	Ministry of Pacific Island Affairs
<b>PBT</b>	Pacific Business Trust
<b>PacEDA</b>	Pacific Economic Development Agency (also referred to as <b>PEDA</b> )