

# Hauraki Rail Trail Update

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<b>TO</b>	Thames-Coromandel District Council
<b>FROM</b>	Ben Day - DCE, Greg Hampton - Area Manager
<b>DATE</b>	10 September 2014
<b>SUBJECT</b>	<b>Hauraki Rail Trail Update</b>

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## **1 Purpose of Report**

To brief the Council about the status of the Hauraki Rail Trail Project and Charitable Trust.

## **2 Background**

Council and Council staff have been concerned about the performance of the Hauraki Rail Trail Charitable Trust and the Hauraki District Council (HDC)-led project to build stage 2 of the trail from Kopu to Kaiaua for some time.

Hauraki District Council, by its own volition, and without prior knowledge from the Rail Trail partner Councils, has also commissioned its own review of the Hauraki Rail Trail Charitable Trust and Primary Trail Operator framework and performance (the exact scope is unknown).

As a last resort, at its meeting in July 2014, the Council's Economic Development Committee resolved the following:

- Requests from the HDC the external review report of the Hauraki Rail Trail
- Requests a report from the Hauraki Rail Trail Charitable Trust on the full disclosure of the performance (including financial statements) of the Trust and the PTM (Primary Track Manager)
- Withholds all payments to the Trust and the HDC until the Economic Development Committee is satisfied with the performance of the Trust and the PTM.

A letter was sent from TCDC Mayor Glenn Leach on 24 July 2014 to HDC and the Trust Chair outlining the Council's position on funding and the status of the relationship between HDC, TCDC and the Trust.

Several days later, Audit NZ released its report on the Hauraki Rail Trail Charitable Trust, which has validated the Economic Development Committee's resolutions and stance, as it raises very specific and immediate issues that require attention by the Trust.

TCDC has also commissioned its own legal advice to give staff and elected members guidance.

## **3 Issue**

The Trust is under-performing because of a number of reasons, including poor Governance, complicated legal agreements, a Primary Trail Operator not fulfilling its contracts and unclear roles and responsibilities.

As the TCDC letter to HDC expresses, the Council also has a view that HDC are not assisting in bringing resolution to the issues surrounding the Trust and in fact maybe making the Trust's role more difficult.

No correspondence has been received from the Hauraki Rail Trail Charitable Trust in response to the Committee's request for information and plans to satisfy the Committee to resume funding again.

The Economic Development Committee will also no doubt require evidence from the Trust that the corrective actions identified in the Audit NZ Report are also being implemented before funding can resume.

#### **4 Discussion**

The TCDC legal advice, like the Audit NZ report, is also recommending the need to renegotiate various legal agreements and for the Trust to respond to the Councils on how it will address the issues being raised by TCDC and Audit NZ.

##### **Audit NZ Findings:**

In summary the Audit NZ report findings are outlined below:

- **URGENT:** Recommends the Trust revisit contractual relationships.
- **URGENT:** The Trust needs assurance commission revenue revised by the PTM is accurate and complete (this impacts on our decision to underwrite the Trust)
- **URGENT:** The Trust has no fraud policy
- **URGENT:** The Trust has no review process of the general ledger
- **NECESSARY:** The Trust has no sensitive expenditure policy
- **NECESSARY:** There are inadequate expense claims evidence from Trustees, with some double payment evidence
- **NECESSARY:** The Trust has not meet requirements of the LGA 2002 (no statement of intent or performance statements).

##### **Next Steps:**

The TCDC representative on the Trust, Mr. Warren Male, has recently resigned due to unrelated circumstances and Cr Sandra Goudie has been appointed by the Economic Development Committee to assist staff in working with the Trust to resolve these highlighted issues.

The current TCDC position is that the Trust must be empowered and be allowed time to respond to the performance issues of the PTO and to resolve the Audit NZ findings.

The three partner Councils will also need to meet to plot a path forward given the differences in approach as outlined in the HDC Letter dated 12 August 2014.

Until the Trust can satisfy the Economic Development Committee that performance issues have been resolved, the CAPEX allocated to the stage 2 Rail Trail project is on-hold as is the Trust's underwriting from TCDC.

As of 10 September 2014, no correspondence has been received from the Trust in response to our letter of 24 July 2014 pausing the funding to the Trust and the Stage 2 CAPEX project.

## **5 Suggested Resolution(s)**

That the Thames-Coromandel District Council:

1. Receives the report.

### **References-Tabled/Agenda Attachments**

**Attachment A** *TCDC Letter to HDC 24 July 2014*

**Attachment B** *Audit NZ Report August 2014 - Hauraki Rail Trail Charitable Trust*

**Attachment C** *HDC Letter to TCDC 12 August 2014*

**Attachment D** *TCDC Legal Advice 18 August 2014*

**Attachment A**

**[Attachment A - TCDC Letter to Hauraki District Council re resolution f...](#)**

**Attachment B**

**[Attachment B - Hauraki Rail Trail Charitable Trust 2012 and 2013 Audit...](#)**

**Attachment C**

**Attachment C - HDC letter to TCDC**

**Attachment D - TCDC Legal Advice from Buddle Findlay**