



**Meeting:** Regional Council

**Meeting Date:** 9 May 2024

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## Item under Separate Cover

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PLEASE NOTE: This item will be heard at a fixed time of 9:30 am.

As noted on the Regional Council Agenda for the meeting on Thursday 9 May 2024, the following item is included under separate cover:

### Reports

#### Decisions Required

**Agenda Item 9.4 Noble family offer to gift land at Hot Springs Road for community benefit**

**2**

### Public Excluded Section

Attachment 1 - DRAFT QEII Trust open space covenant - Public Excluded



**Report To:** Regional Council

**Meeting Date:** 9 May 2024

**Report Writer:** Santiago Bermeo, Senior Planner

**Report Authoriser:** Chris Ingle, General Manager, Integrated Catchments

**Purpose:** To seek your agreement to accept a donation from the Noble family of 103 hectares of land at Hot Springs Rd (Western Bay of Plenty) for community benefit.

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## Noble family offer to gift land at Hot Springs Road for community benefit

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### Executive Summary

Former Regional Councillor Ian Noble and his family have very generously offered to gift their 103 ha property at Hot Springs Road to the Regional Council. The family wants the ecological, landscape and recreational values of this land to be protected in perpetuity for the benefit of the community, through the future establishment of a Regional Park. If the proposal is supported by Council, a Queen Elizabeth II Trust open space covenant would be registered against the certificate of title (Attachment 1).

The property is in a Focus Catchment and parts of it have significant biodiversity values (a Priority Biodiversity Site). QEII Trust can assist with funding for fencing improvements, for protecting biodiversity, and existing council budgets can provide sufficiently for interim property management (see financial implications section). The value proposition is strongly positive.

Subject to Long Term Plan deliberations, future funding could enable development of the property into a Regional Park. The capital costs for this can be developed over time, with other potential funders also being invited to contribute. These matters would need careful planning with mana whenua and the local community in coming years.

### Recommendations

**That the Regional Council:**

- 1 Receives the report, *Noble family offer to gift land at Hot Springs Road for community benefit.***

- 2 **Accepts with gratitude the land at Hot Springs Road being gifted from the Noble family to Bay of Plenty Regional Council for the purpose of protecting it in perpetuity for community benefit.**
- 3 **Notes the Noble family's wishes in relation to future management of the property, as reflected in the draft Queen Elizabeth II Trust open space covenant for the property (Attachment 1).**
- 4 **Agrees to enter into a Memorandum of Understanding with the Noble family to give effect to the recommendations above, and delegates authority to the Chief Executive to execute the documents to do so.**
- 5 **Notes staff propose to include \$100k of capex in Year 1, plus ~\$50k per year of opex, in the Long Term Plan 2024-34, to enable initial development and management of the property, subject to the outcome of LTP deliberations.**
- 6 **Notes additional costs for developing and maintaining a new Regional Park could be considered in future Annual or Long Term Plan processes.**
- 7 **Notes that, unless the Noble family express a strong preference for naming the potential future Regional Park, possible naming would be considered by local hapū and community representatives for future approval by the Noble family (if that is their preference) and nominated Council representatives.**
- 8 **Confirms the public be excluded on the grounds set out in the Local Government Official Information and Meetings Act 1987 from consideration of the following report attachment:**
  - (a) **DRAFT QEII Trust open space covenant under Section 48(1)(a)(i) Section 7 (2)(a) as withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons, and under Section 48(1)(a)(i) Section 7 (2)(i) as withholding the information is necessary to enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) and that this attachment be released to the public on the Chief Executive's approval.**

## 1. Introduction

This paper responds to a December 2023 request for staff to further consider the value proposition of acquiring the land for its long-term protection and community use as a Regional Park.

The property is at the top of Hot Springs Road, adjacent to the Kaimai-Mamaku Forest Park, and about 6km south-west of Katikati (Figure 1). It is a 103 ha steep/very steep hill country property owned by former Regional Councillor Ian Noble and his family. The property has a rateable capital value of \$1.34m (September 2022). Sitting at an elevation of 350m (cf. top of Mauao at 232m), the upper part of the property has expansive views of the coastal Bay of Plenty, Coromandel Peninsula, Tauranga Harbour and coastal islands.

Several permanently flowing tributaries of the Te Mania stream pass through the property. There are also ephemeral streams/springs that originate within the property, including one which is a tributary of the Te Rereatukahia stream. More than half of the property is in remnant native bush, partially fenced to exclude stock, with the remainder in pasture under a light grazing regime. The area in native bush is part of significant ecological and outstanding landscape features recognised in the Western Bay of Plenty District Plan.

In an act of utmost generosity, the Noble family wish to donate the land to Regional Council for the future establishment of a Regional Park to protect its values in perpetuity and community benefit. To ensure the family’s wishes for the land are respected, a Queen Elizabeth II Trust (QEII) open space covenant is being developed for the entirety of the property (Attachment 1).

The Nobles see the approach of applying both a QEII covenant and seeking official Regional Park status under s. 139 of the Local Government Act 2002 as a way to ensure that their wishes for the land endure any changes to local or central government arrangements or priorities.

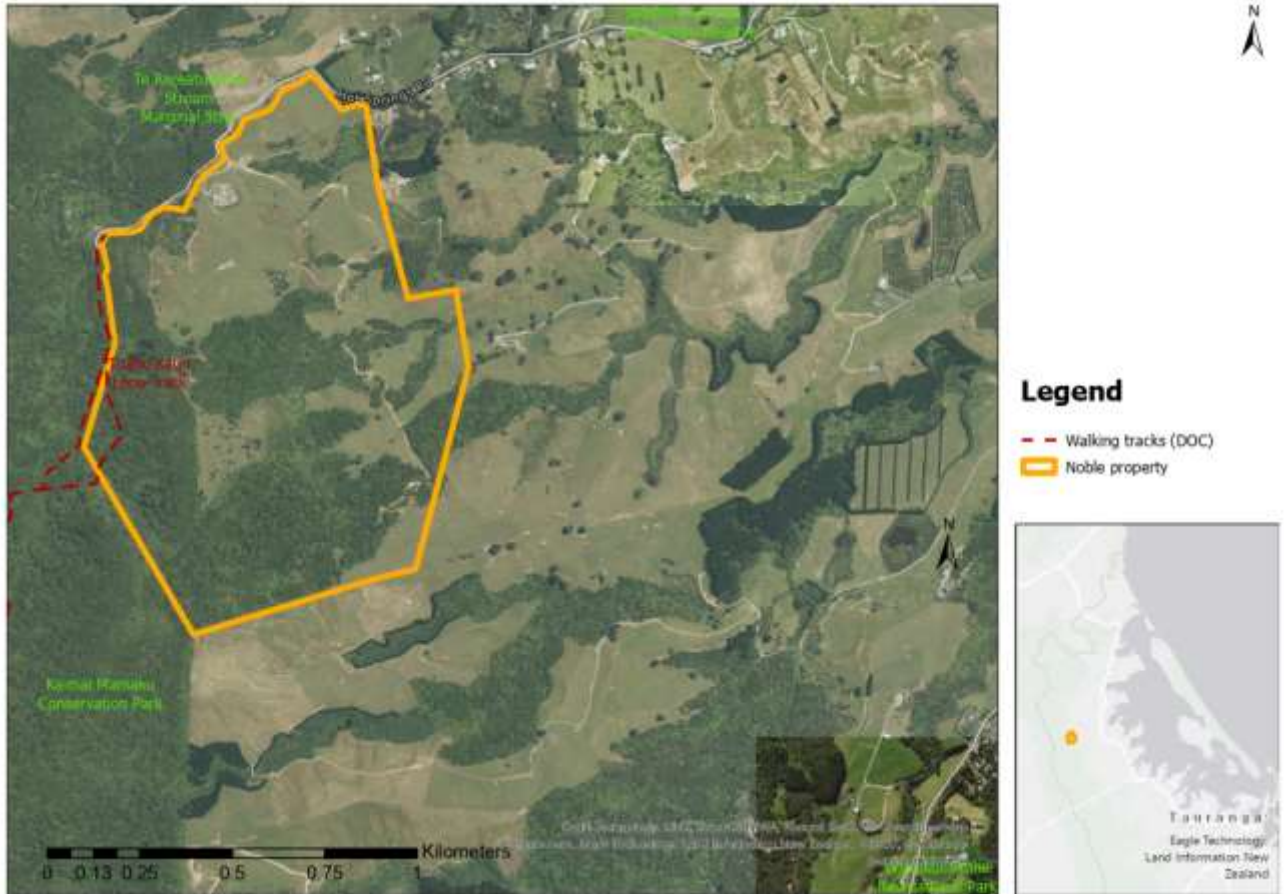


Figure 1: Noble property, Hot Springs Road, Western Bay of Plenty

### 1.1 Legislative Framework

Land acquisition by Regional Council is not governed by any single piece of legislation. When considering land acquisition proposals, including through donations, the role of local government under the Local Government Act 2002 (LGA) is relevant, i.e., to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

There are multiple different legal mechanisms available to protect the land. These include:

- a QEII open space covenant (under the QEII National Trust Act 1977),
- s. 139 of the LGA (protection of regional parks),
- s. 14 of the Reserves Act 1977 (classification as a reserve),

- a designation through the Western Bay of Plenty District Plan (under the Resource Management Act 1991 [RMA]), and
- a Western Bay of Plenty District Council protection covenant.

Staff have considered these against criteria relevant to the proposal, informed by expert advice. These protection mechanisms are not necessarily mutually exclusive, and more than one mechanism could be implemented concurrently to achieve different objectives.<sup>1</sup>

The Noble family have expressed a strong preference for a QEII open space covenant. Staff agree that this would provide a strong degree of protection in perpetuity. Staff have participated in negotiations with the QEII Trust and the Noble family to ensure the covenant is consistent with the development and operation of a Regional Park that will be open to the public.

Furthermore, the Noble family expect that Regional Council would eventually also pursue a process to officially protect the property as a regional park under s. 139 of the LGA.

Section 77 of the LGA requires local authorities, while making decisions, to consider all reasonably practicable options for the achievement of an objective. Further, in relation to decisions that involve land or a body of water, local authorities are required to take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, value flora and fauna, and other taonga.

## 1.2 Alignment with Strategic Framework

The proposal to establish a new Regional Park on the land being donated by the Noble family supports the following Community Outcomes in the current Strategic Framework:

<b>A Healthy Environment</b>	We protect and enhance our air, land, freshwater, geothermal, marine, coastal resources, and biodiversity for our communities. We support others to do the same.
<b>Freshwater for Life</b>	Our water and land management practices maintain and improve the life-giving ability of the region’s freshwater resources.
<b>A Vibrant Region</b>	Our stewardship of natural resources and the connections we make provides for sustainable economic development across our region.

Subject to future funding, the Park would also offer recreational opportunities, potentially benefitting related businesses and increasing tourism activity.

The proposal would also support the following Community Outcomes in the draft new Strategic Framework:

- A healthy environment/He taiao ora
- Future-ready communities/He haponi mata-hi awatea
- Sustainable development/He whanaketanga mauri tu ora

<sup>1</sup> Pāpāmoa Hills and Onekawa Te Mawhai regional parks have not been officially declared protected regional parks under the LGA, or reserves under the Reserves Act. However, Onekawa Te Mawhai does have a QEII open space covenant over part of the Park.

1.2.1 Community Well-beings Assessment

Dominant Well-Beings Affected			
<input checked="" type="checkbox"/> Environmental Medium - Positive	<input checked="" type="checkbox"/> Cultural Medium - Positive	<input checked="" type="checkbox"/> Social Medium - Positive	<input checked="" type="checkbox"/> Economic Medium - Positive

Environmental benefits would result from a different land use regime on the property, by replacing some of the pasture with additional native forest over time and enhancing protection of ecologically significant features.

Social and economic impacts would stem from the recreational opportunities likely to be offered by the future Regional Park.

Engagement with mana whenua has not yet occurred (other than through the high-level Long Term Plan consultation question). However, it is anticipated the proposed Park would offer opportunities for enhanced cultural relationships with the land, waterways and native bush encompassed within the property. These opportunities would be explored further with mana whenua.

2. Value proposition for the proposed Regional Park

Table 1 summarises the main benefits and costs to BOPRC and the Bay of Plenty community associated with the Regional Park proposal. Where it is possible to quantify these, specific values are provided.

Being mostly non-market values, many of the environmental, social and cultural benefits of the Regional Park cannot be directly quantified. On the other hand, costs are easily quantifiable. These include administration costs relating to the acquisition process, and development and maintenance costs, which can be tailored to available budgets. It is important to note that since there is no land purchase cost, the land value is considered a benefit in this case. On balance, staff consider there is a very strong case to accept the Noble’s family generous donation and to establish a Regional Park at this location in the future. This position is supported by the recent LTP consultation on whether new regional park opportunities should be investigated, which showed that 66% of submitters were in favour.

Table 1: Benefits and costs associated with the proposed Regional Park

Benefits	Costs
<ul style="list-style-type: none"> <li>Land being donated (RV of \$1.34m as of Sep 2022)</li> <li>Recreational and tourism opportunities (including spillover effects to related businesses)</li> <li>Reduced contaminant loss and water quality improvements in Te Mania and Te Rereatukahia catchments.</li> <li>Enhanced biodiversity</li> </ul>	<ul style="list-style-type: none"> <li>Acquisition: expert advice and legal costs only (&lt;\$30k covered from existing budgets)</li> <li>Environmental Programme costs (to be confirmed and subject to partner co-funding, but covered from existing budgets)</li> <li>Initial property development cost: proposed inclusion of \$100k capex in Year 1 of the LTP 2024-34, subject to LTP deliberations.</li> </ul>



<ul style="list-style-type: none"> <li>• Protecting headwaters of culturally important waterways</li> <li>• Reduced greenhouse gas emissions and increased carbon sequestration</li> <li>• Possible opportunity to create and sell off-site Transferable Development Rights</li> <li>• Opportunity to leverage co-funding from external parties (so far QEII Trust contribution)</li> </ul>	<ul style="list-style-type: none"> <li>• Operations, maintenance and management: proposed inclusion of ~\$50k per year in LTP 2024-34, subject to LTP deliberations</li> <li>• Additional funding subject to future AP/LTP processes</li> </ul>
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## 2.1 Recreational and tourism opportunities

The Noble family’s wishes for the land are to enable passive recreation, trails for walking and running, cycling, horse-riding, outdoor environmental education, etc. There are also opportunities to link with the Kaimai Mamaku Conservation Park, Waitekohekohe Recreational Park and the Thompson’s Track area. The property is also near the Sapphire Springs Holiday Park and Recreation Reserve. The addition of a new Regional Park at this location would add to the network of recreational facilities in the area and is likely to increase visitors, potentially benefiting related businesses. The Western Bay of Plenty population is expected to experience significant growth in the near future, creating more demand for recreational facilities.

Recreational facilities that enable contact with nature have significant wellbeing and social value to the community. This is reflected by the increasing popularity of the Pāpāmoa Hills Regional Park, where visitor numbers have more than doubled since the upgrade project was completed, and responses to the Regional Park satisfaction survey.

## 2.2 Water quality improvements

The Te Mania catchment is currently a Focus Catchment for land management intervention due to a poor state for *E. coli* and sediment in the stream. The Te Rereatukahia Stream is also in a poor state for *E. coli*. Despite this, the Te Rereatukahia Stream, downstream from the property, is a popular swimming spot.

Land management changes on the property would reduce contaminant losses into these streams by retiring and planting steep and wet critical source areas, comprising about 9.6 hectares.

## 2.3 Biodiversity

The Te Rereatukahia Forest, part of which is contained within the property, is already recognised in the District Plan as a significant ecological feature and is one of BOPRC’s Priority Biodiversity Sites, so its protection would contribute directly to Council’s Biodiversity KPI. It includes mature native trees including kauri, rata and tawa. The gifting of the land creates opportunities to enhance the ecological integrity of this special site through improved fencing, weed and pest control.

## 2.4 Greenhouse gas emissions

By reducing stock numbers on the property, agricultural emissions would also reduce. If 10 hectares of native forest were planted (about 25% of the 40 hectares

currently in pasture), it is estimated carbon sequestration from this new forest alone would add up to more than 3,000 tonnes of CO<sub>2</sub> over the next 50 years. BOPRC might offset this against our corporate emissions, consistent with our target to be carbon neutral by 2050.

### 2.5 Co-funding from external parties

Subject to LTP deliberations, the Regional Park development may present an opportunity to leverage co-funding from external parties. One opportunity staff would consider is the creation of off-site transferable development rights (TDRs) by establishing the Regional Park as a community benefit or protection lot under the Western Bay of Plenty District Plan. TDRs enable sub-divisions in the Lifestyle Zones of the District, subject to expected future changes to the District Plan. It is expected that this could generate between \$100,000 and \$250,000 of revenue for the Park’s development and maintenance in future years. The QEII Trust has agreed to contribute to interim native bush protection costs in year 1. Staff would also be approaching other interested Trusts and organisations which may be interested in also contributing to the eventual development of the land into a Regional Park, should Council approve this to proceed.

## 3. Considerations

### 3.1 Risks and Mitigations

The main recommendation in this report is to accept the donation of the land. The main risk associated with declining this donation would be potentially missing out on this opportunity, e.g., if the family withdraw their generous offer, and on QEII Trust co-funding for Environmental Programme works.

There would eventually be many other risks associated with owning the land once the decision has been made to develop as a Regional Park. However, none of these risks are considered to be significant, particularly when compared to the expected benefits. Table 2 below summarises these risks and how they have been or are proposed to be mitigated.

*Table 2: Risks associated with developing and operating the land as a Regional Park*

Risk	Likelihood/Consequence	Mitigation
Prohibitive development/maintenance costs	Low/Low	<ul style="list-style-type: none"> <li>Develop into a Regional Park as future budgets and other priorities allow.</li> <li>Seek external funding opportunities and partnerships (e.g., TDRs, Western Bay “City Deal”, local Trusts, etc.).</li> <li>Consider either designation or reserve status to minimise resource consent costs.</li> </ul>
Health & Safety	Med/Med	<ul style="list-style-type: none"> <li>QEII covenant already spells out which activities would be considered acceptable, as per the Noble family’s wishes.</li> <li>Plan to transition out existing pistol and bowhunters clubs over 2 years, before the Park is opened to the public.</li> </ul>
Incompatible uses (e.g., motorised recreation, pistol and bowhunters clubs, etc.)		



Lack of support from community and/or tangata whenua	Low/High	<ul style="list-style-type: none"> <li>• Park Development and Management Plan to be developed in collaboration with the local community and mana whenua.</li> <li>• Consider establishing an appropriate management forum with mana whenua.</li> <li>• Long Term Plan consultation indicates the majority (66%) of submitters support investigations into new Regional Parks.</li> </ul>
Compliance with QEII covenant	Low/Med	<ul style="list-style-type: none"> <li>• Staff involvement in drafting of QEII covenant to ensure it is consistent with the intended purpose for the land.</li> <li>• Park Development and Management Plan to give effect to covenant.</li> </ul>

### 3.2 Climate Change

Mitigation			Adaptation	
Reduce GHG emissions	Produce GHG emissions	Sequester carbon	Anticipate climate change impacts	Respond to climate change impacts
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The intention to re-vegetate part of the property over time, would result in a reduction of greenhouse gas emissions and increased carbon sequestration. This would contribute to the organisational target to reach net zero emissions by 2050.

Figure 2 illustrates a conceptual assessment of the impact of the proposed new Regional Park on our corporate emissions.

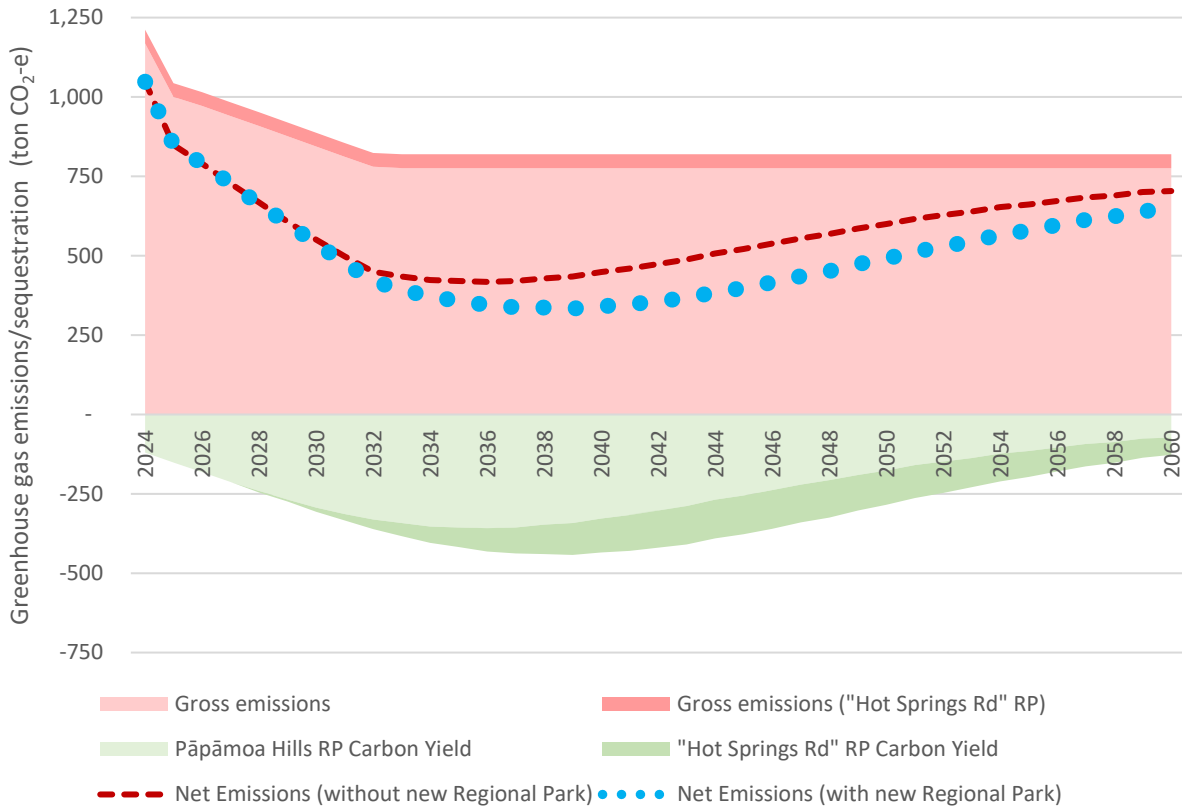


Figure 2: Corporate emissions with and without the proposed new Regional Park<sup>2</sup>

While there would be a minor increase in gross emissions associated with new grazing activity, development and maintenance of the new Regional Park, there would also be significant additional sequestration associated with re-vegetation of the site.

With carbon sequestration, an alternative to insetting against corporate emissions would be to sell carbon credits earned under the Emissions Trading Scheme. These alternatives could be considered in more detail during within the Park Development and Management Plan.

From an adaptation perspective, under more frequent and severe weather events, a forest land cover (as planned for part of the property) would be preferable in terms of reducing erosion, flow peaks in downstream flooding and the loss of other contaminants, during rain events. The Bay of Plenty Regional Climate Risk Assessment identified risks to Tauranga Harbour and its ecosystems from increased sedimentation, mobilised by increasing severity of extreme weather events acting on steep catchments. This benefit would be relatively small.

Ngāi Tamawhariua are currently undertaking a community-led adaptation project at the site of their marae and papakāinga at Te Rereatukahia, at the bottom of this catchment. The site is exposed to harbour inundation and riverine flooding.

<sup>2</sup> Assuming that 9.6 hectares or -25% of the current area in pasture is re-vegetated with native trees while 30 hectares remain in pasture and the balance of 63 hectares remains as pre-existing forest. Sequestration estimates are based on ETS carbon stock “look up” tables for native species and assume all planting is completed by 2027.

### 3.3 Implications for Māori


No specific engagement with Māori has informed this paper. However, a high-level question on new Regional Parks generally was included in consultation on the Long Term Plan 2024-34. LTP consultation included targeted engagement with iwi/hapū.

It is expected Māori would generally support retirement of pasture to native forest, particularly if this would contribute to improved water quality without further constraining development opportunities for Māori-owned land. Residents of the Te Rereatukahia papakāinga are frequent users of the stream, downstream from the property, particularly for swimming.

The property is within the area of interest of several iwi and hapū, primarily Ngāi Tamawhariua and Ngāti Te Wai. The development of a management plan for the Regional Park should be undertaken in partnership with mana whenua, reflecting the cultural and historical values and narratives of the area. Such a partnership could also consider the best ongoing arrangements for the Park’s management.

### 3.4 Community Engagement

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	<p><b>CONSULT</b> <b>Whakauiuia</b></p>	<p>To obtain input or feedback from affected communities about our analysis, alternatives, and /or proposed decisions.</p>
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There has not been any community engagement on whether or not Council should accept the donation of this property.

A high-level question on whether BOPRC should investigate new opportunities for regional parks was included in consultation on the LTP 2024-34. The consultation document did not include specific details about this property, due to the need to protect Council’s position and landowners’ privacy. The consultation document did specify that one of the opportunities being considered was in the Western Bay of Plenty.

Full analysis of Long Term Plan submissions is underway. However, initial analysis shows 66% (158) of submitters who responded to that consultation topic were supportive of Council investigating new opportunities for Regional Parks.

### 3.5 Financial Implications

There are no immediate financial implications from accepting the proposed land donation. Legal, administrative and expert advice costs associated with the process to date have been covered from existing budgets. The Environmental Programme works planned for the property can be covered through existing budgets and co-funding from QEII Trust.

The draft LTP 2024-34 adopted for consultation included \$150,000 in Year 1 for due diligence and a business case on a new Regional Park at the property. However, that was based on the assumption that the Council would have had to buy the land at market value.

Given the Noble family now wishes to donate the land, the proposed budget below is now directed at initial costs for land development care and maintenance. This proposed funding is subject to LTP deliberations and assumes the generous offer of this land is accepted as a future regional park.

The proposed 100k of capex in Year 1 would provide for some small but immediate capital improvements (e.g., safe all weather vehicle access tracks and drainage), consistent with eventual development into a Regional Park. There would also be ongoing management, maintenance and running costs, which could be tailored to the level of funding available. By way of comparison, the current annual budgets for maintenance of the Pāpāmoa Hills (excluding recent upgrade project) and Onekawa Te Mawhai Regional Parks are about \$400k and \$70k respectively. Staff propose an initial opex budget of \$50k per year. All these funding decisions are subject to LTP deliberations.

Additional development and maintenance funding can be re-considered at future AP and LTP processes.

Table 2: Proposed funding levels for inclusion in the Long Term Plan 2024-34 through deliberations

Financial Implications (Inflated numbers)	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	10 Year
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
	\$000										
<b>Capital Expenditure</b>	\$ 100	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100
<b>Operating Expenditure</b>											
Investigations, Operations & Maintenance	\$ 43	\$ 38	\$ 37	\$ 34	\$ 35	\$ 35	\$ 35	\$ 36	\$ 37	\$ 38	\$ 369
Depreciation	\$ 5	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 10	\$ 95
Borrowing Costs	\$ 2	\$ 3	\$ 5	\$ 8	\$ 8	\$ 8	\$ 8	\$ 8	\$ 8	\$ 8	\$ 67
<b>Total Operating Expenditure increase / (decrease)</b>	<b>\$ 50</b>	<b>\$ 51</b>	<b>\$ 52</b>	<b>\$ 52</b>	<b>\$ 53</b>	<b>\$ 54</b>	<b>\$ 54</b>	<b>\$ 55</b>	<b>\$ 56</b>	<b>\$ 56</b>	<b>\$ 532</b>
<b>Net operating cost/(saving) to Council</b>	<b>\$ 50</b>	<b>\$ 51</b>	<b>\$ 52</b>	<b>\$ 52</b>	<b>\$ 53</b>	<b>\$ 54</b>	<b>\$ 54</b>	<b>\$ 55</b>	<b>\$ 56</b>	<b>\$ 56</b>	<b>\$ 532</b>
<b>Rates Impact</b>											
General rates (100%)	\$ 50	\$ 51	\$ 52	\$ 52	\$ 53	\$ 54	\$ 54	\$ 55	\$ 56	\$ 56	\$ 532
<b>Total Rates increase / (decrease)</b>	<b>\$ 50</b>	<b>\$ 51</b>	<b>\$ 52</b>	<b>\$ 52</b>	<b>\$ 53</b>	<b>\$ 54</b>	<b>\$ 54</b>	<b>\$ 55</b>	<b>\$ 56</b>	<b>\$ 56</b>	<b>\$ 532</b>
<b>% movement</b>											
General rates (100%)	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	

#### 4. Next Steps

Should Council agree to accept the Noble family’s generous donation, the immediate next step would be to sign the proposed MOU and complete a sale and purchase agreement for the property. Note that under BOPRC’s Delegations Manual, this can be delegated to the Chief Executive.

The process to protect the Park under s. 139 of the LGA could also start at this time.

Following that and subject to the outcome of LTP deliberations, a Regional Park development project could be initiated, at a later date. This would involve engagement with the local community, stakeholders and mana whenua on plans for park development and management.

Council staff will assist the pistol and bowhunting clubs that currently use the property to find a suitable alternative, given ongoing use is incompatible with other Park users, particularly from a health and safety perspective.

Over the medium to long term, and subject to available funding, it would be necessary to establish facilities to enable broader access and use by the community (e.g., carpark, toilets, tracks and trails, interpretation signage, etc.). The Park would not be open to the wider public until a basic level of facilities are completed and the pistol and bowhunting clubs have been relocated.

To enable eventual Regional Park development, staff would seek co-funding from third party funders. An initiative that is currently underway is the inclusion of the

proposed Regional Park in the Western Bay “City Deal” with central government. Staff would also be approaching local Trusts and organisations which may also be interested in contributing funding for Park development.

## **Attachments**

Attachment 1 - DRAFT QEII Trust open space covenant (Public Excluded) [↓](#)

## **ITEM 9.4**

### **PUBLIC EXCLUDED ATTACHMENT 1**

#### **DRAFT QEII Trust open space covenant**