

## Westminster Reserve

**Originating Officer** Land Asset Officer/Registered Conveyancer - Heather Michell

**Corporate Manager** Manager City Property - Megan Hayward

**General Manager** General Manager City Development - Abby Dickson

**Report Reference** GC190514F01

**Confidential**



**Confidential Motion**

That pursuant to Section 90(2) and (3)(b)(i)(ii) of the *Local Government Act 1999*, the Council orders that all persons present, with the exception of the following persons: Adrian Skull, Abby Dickson, Vincent Mifsud, Kate McKenzie, Megan Hayward, Heather Michell, Clare Benn, Jaimie Thwaites and Richard Watson be excluded from the meeting as the Council receives and considers information relating to Westminster Reserve, upon the basis that the Council is satisfied that the requirement for the meeting to be conducted in a place open to the public has been outweighed by the need to keep consideration of the matter confidential given the information relates to a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and be contrary to the public interest.

## REPORT OBJECTIVE

The purpose of this report is to seek direction from Council, whether Council wishes to retain Westminster Reserve or sell the Reserve to the adjacent Westminster School either for no monetary payment or for a minimal monetary payment, subject to the outcome of discussions with the School.

## EXECUTIVE SUMMARY

Westminster Reserve (the Reserve) is a landlocked parcel of land bounded by the Sturt River, the rail corridor and Westminster School (the School) of approximately 980 square metres. The reserve does not have a street frontage and Council has no legal access to the Reserve which is currently being used by the School.

Council has received an informal offer from Westminster School to acquire the Reserve from Council for no monetary payment. As there is only one potential buyer, the sale must be by direct sale through a direct negotiation process.

The following options are available to Council:

### Option 1 - Retain

Council can retain the reserve and allow Westminster School to have continued uninterrupted use of the land. Council is not maintaining the Reserve and the impact of value of any holding costs is minimal. If Option 1 is adopted, no further action is required by Council.

### Option 2 (Recommended)

Enter into discussions with Westminster School for the sale of Westminster Reserve for a monetary payment on the basis that Westminster School pays all costs including those associated with the Community Land

revocation and to bring a report back to Council on conclusion of the discussions. Regardless of responsibility of payment of all costs.

#### Option 3

Enter into discussions with the School for the sale of the Reserve for no monetary payment on the basis that Westminster School pays all costs including those associated with the Community Land revocation and to bring a report back to Council on conclusion of the discussions.

This report seeks direction from Council on how it wishes to approach the offer from the School to acquire the land.

## **RECOMMENDATION**

### **That Council:**

- 1. Authorises Administration to enter into discussions with Westminster School for the sale of Westminster Reserve for a monetary payment on the basis that Westminster School pays all costs.**
- 2. Notes a further report will be brought back to Council on the outcomes of negotiations with Westminster School.**
- 3. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report, appendices and the minutes arising from this report having been considered in confidence under Section 90(2) and (3)(b)(i)(ii) of the Act shall, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2019.**

### **OR**

- 1. Endorses to retain Westminster Reserve, Oaklands Park.**
- 2. In accordance with Section 91(7) and (9) of the Local Government Act 1999 the Council orders that this report and appendices arising from this report having been considered in confidence under Section 90(2) and (3)(b)(i)(ii) of the Act shall, except when required to effect or comply with Council's resolution(s) regarding this matter, be kept confidential and not available for public inspection for a period of 12 months from the date of this meeting. This confidentiality order will be reviewed at the General Council Meeting in December 2019.**

## **GENERAL ANALYSIS**

<b>Risk Management:</b>	If the sale of Westminster Reserve proceeds, two independent valuations will be obtained for consideration by Council
<b>Legal / Legislative / Policy:</b>	The Reserve is classified as community land under the Local Government Act 1999. Before Council can enter into any agreement for the disposal of the Reserve, this classification must be revoked.
<b>Additional Resource Impact</b>	Although all costs are to be paid by Westminster School if they acquire the land from Council, Council will require it's own independent Conveyancer. Council's in-house Conveyancer can attend to all requirements.
<b>Current Budget Allocation</b>	Nil

## DISCUSSION

Westminster Reserve (the Reserve) is a landlocked parcel of land bounded by the Sturt River, the rail corridor and Westminster School (the School). The Reserve is triangular in shape and is approximately 980 square metres.

Several mature gum trees are on the northern boundary. Some of these trees may be regulated or significant. This Reserve is not currently maintained by Council.

The land vested in Council in 1960 and is not subject to any trusts, dedications or restrictions other than the Community Land Classification.

The Reserve does not have a street frontage and Council has no legal access to the Reserve.

Prior to the re-alignment of the Sturt River, Council owned a reserve as shown in red on the attached map (Appendix 1). After the Sturt River channel was re-aligned, SA Water acquired the portion of the Council reserve, severing a small portion now known as Westminster Reserve from the balance of the reserve now known as Kenton Avenue Reserve. Westminster Reserve is shown on the attached map (Appendix 2).

The Reserve is currently being used by the School and appears to have cricket mats laid over the boundary

Council has received an informal offer to acquire the Reserve from Council for no monetary payment.

### Valuation

Council has received a Valuation Report which indicates that the Reserve is estimated market value is \$85,000. This has been estimated using the "Before and After" method. That is, analysing the current estimated market value of the School's land before and after the acquisition of the Reserve.

Discounts have been applied taking into consideration that the Reserve is landlocked and the current zoning.

The value of the land in Council's Balance Sheet is all held in one asset record for Kenton Avenue Reserve. Using a rate per square metre, this equates to \$49,000 for Kenton Avenue Reserve as at 30 June 2018.

Although it has been determined that the market value of the Reserve is estimated at \$85,000, as the Reserve is landlocked and there is only one potential buyer, Council is not in a strong position to negotiate a sale at the market value.

### Community Land

The Reserve is classified as community land under the Local Government Act 1999.

***Before Council can enter into any agreement for the disposal of the Reserve, this classification must be revoked.***

### Possessory Rights

The School has enjoyed approximately 37 years of uninterrupted use and possession of the land. There is no record of Council having approved exclusive use of the Reserve by the School. It is unlikely that a claim for adverse possession by the school would be successful, however, legal advice should be sought if the school makes any such claim.

### Options

#### Option 1 - Retain

Council can retain the reserve and allow Westminster School to have continued uninterrupted use of the land. Council is not maintaining the Reserve and the impact of value of any holding costs is minimal. If Option 1 is adopted, no further action is required by Council.

#### Option 2 (**Recommended**)

Enter into discussions with Westminster School for the sale of Westminster Reserve for a monetary payment on the basis that Westminster School pays all costs including those associated with the Community Land revocation and to bring a report back to Council on conclusion of the discussions. Regardless of responsibility of payment of all costs.

#### Option 3

Enter into discussions with the School for the sale of the Reserve for no monetary payment on the basis that Westminster School pays all costs including those associated with the Community Land revocation and to bring a report back to Council on conclusion of the discussions.

### **Next Steps**

If Options 2 or 3 are adopted the following actions will be required upon conclusion of successful discussions with the School:

1. A report will be brought back to Council outlining the outcome of the negotiations with the School
2. The Community Land Classification must be revoked which requires further Council Reports, community consultation and Ministerial approval. An outline of the process is below:

*Council Report 1* - Authorisation to undertake consultation under Section 194(s)(b) of the Local Government Act 1999

*Council Report 2* - Consideration of the submissions made in response to the public consultation and authorisation for Ministerial consideration of revocation

*Council Report 3* - Revocation of Community Land classification on receipt of Ministerial approval (Final Report)

3. As there is only one potential buyer, the sale must be by direct sale through a direct negotiation process. That is, the Reserve cannot be sold on the open market. Council's Disposal of Land and Assets Policy requires that where land is to be disposed of via a select tender or direct sale, a minimum of two independent valuations must be obtained not more than six months prior to the proposed disposal and the disposal should be at or above the current market valuation. A resolution will need to be passed by council stating that the Disposal of Land and Assets Policy is not to apply to the disposal of Westminster Reserve.
4. Westminster Reserve is only portion of an allotment and cannot be sold without being severed from the balance of the land, being Kenton Avenue Reserve, by way of a Land Division.

### **Attachment**

#	Attachment	Type
1	Attachment 1 Prior to Realignment of Sturt River	PDF File
2	Attachment 2 Reserve to be sold to Westminster School	PDF File

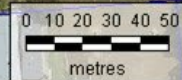


# Attachment 1 Prior to Realignment of Sturt River

Westminster  
School

Council  
Reserve

Sturt  
River







Attachment 2  
Reserve to be sold to  
Westminster School

Council  
Reserve

Westminster  
School

Sturt River

GROVERIDGE