

RECOMMENDATION

That Council:

Option 1 – Sale of Reserve

1. **Accepts Westminster School's proposal to purchase Westminster Reserve for a value of \$5,000, Westminster School to pay all associated costs with the revocation, sale and transfer of land.**
2. **Enter into a short term agreement with Westminster School for a fee of \$1 if demanded for the use of Westminster Reserve, all associated costs in drafting the agreement be shared by both parties.**
3. **A further report will be brought back to Council to commence public consultation in accordance with Section 194 of the Local Government Act.**
4. **In accordance with Section 90(2) 3(b) (i) and (ii) of the Local Government Act 1999, orders that this report, the attachments and minutes arising from this report, having been considered in confidence under Section 90(2) 3(b) (i) and (ii) of the Act, 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 2020.**

OR

Option 2 – Retain and Lease

1. **Retain ownership of the reserve and enter into a 5 year lease with Westminster School with the following conditions:**
 - **Fee of \$1 if demanded**
 - **Costs of drafting the agreement be equally shared between Council and Westminster**
 - **Westminster to continue to carry out the maintenance of the reserve at their cost**
2. **In accordance with Section 90(2) 3(b) (i) and (ii) of the Local Government Act 1999, orders that this report, the attachments and minutes arising from this report, having been considered in confidence under Section 90(2) 3(b) (i) and (ii) of the Act, 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 2020.**

BACKGROUND

Westminster Reserve (the Reserve) is a triangular landlocked parcel of land located in Marion (refer to Attachment 1), comprising of 960 sqm which is bounded by the Sturt River, the electrified rail corridor and Westminster School (the School).

The reserve does not have any street frontage and is landlocked, Council has no legal right of access to the land to either maintain or use it. The School has been utilising the reserve as part of their sports field and have been maintaining the reserve since 1966.

At the General Council meeting on 11 June 2019 (GC190611F01), it was resolved:

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. *Requests Administration enter into negotiations seeking a sale of price in the order of \$20,000 plus payment for all costs associated with the community land revocation*



3. *Notes a further report will be brought back to Council on the outcomes of negotiations with Westminster School.*
4. *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.*

A subsequent report was presented to Council on 23 June 2020 (GC200623F02), it was resolved:

That Council:

1. *Notes the Report.*
2. *Endorses the administration to progress negotiations with Westminster School for the transfer of Westminster Reserve, for valuable consideration, and a report be brought back to Council by September 2020.*
3. *In accordance with Section 91 (7) and (9) of the Local Government Act 1999, orders that this report, the attachments and minutes arising from this report, having been considered in confidence under Section 90(2) 3(b) (i) and (ii) of the Act, 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 2020.*

DISCUSSION

Following Council's decision in June 2020, administration met with the Principal of the school to progress further negotiations for the transfer of Westminster Reserve for a valuable consideration. At the meeting a number of options were discussed consistent with current and previous Council's decisions, these options were:

- Option 1 - Purchase at a revised value
- Option 2 - Lease
- Option 3 - Scholarship
- Option 4 - Council reclaim the land

The Principal indicated that the School Board still retains an interest in purchasing the reserve from Council and felt that given the number of years that they have maintained the reserve at their own costs and the landlocked nature of this particular land parcel the original \$20,000 proposed was not a realistic figure. The Principal also advised that whilst open to the idea of a scholarship, the school currently provides a number of different scholarships, valued at \$25,000 per student along with partial scholarships or fee deductions to support hardship considerations to their school community. Also noting that their current resources are largely committed either to managing COVID19 issues which have impacted their revenue source and to significant capital investment program commenced earlier in the year. The Principal advised that he would present these options to the School Board, in particular looking to interrogate a value for the land that the Board would be comfortable with, noting that Council would not be disposing the land for nil consideration.

Administration have also explored opportunities with SA Water and DPTI Rail on their interests to acquire the reserve from Council. Unfortunately both indicated that they have no interest in acquiring the reserve.

Since the meeting administration have been seeking a formal response with the Principal advising administration that the Board have indicated that they would be prepared to progress purchase of the reserve at a value of \$5,000 plus all costs associated with the transfer of the property. Alternatively if this proposal is not supported by Council the other option the Board discussed would be to enter into a lease for a peppercorn rent, the School would continue to take on all maintenance costs as they have done since 1966.

The following options are available to Council:

Option 1 - Dispose of reserve for \$5,000 to the School (Recommended Option)

The School acknowledges that a valuable consideration is necessary for Council to agree to sale of the reserve and whilst the proposed \$5,000 is below the original discounted value of \$20,000, consideration should be given to the landlocked nature of the reserve with Council having no legal right to access the land to maintain or use it and that other than the School there are no other potential purchasers, noting that SA Water and DPTI rail have indicated no interest in purchasing the land from Council.

Council disposing the reserve to the School for \$5,000, with all costs to be borne by them including costs associated with the revocation of community land classification.

In accordance with the Local Government Act 1999 (the Act), the reserve is classified as community land and in accordance with the Act, Council must first revoke the community land classification prior to disposing of this land.

If Council endorses this option the next steps are:

1. A report to Council to commence public consultation under Section 194 of the Local Government Act.
2. A second report to Council to consider the submissions made in response to the public consultation and a decision on whether to proceed with the revocation process, if confirmed proceed with a submission to the Minister to consider the revocation.
3. A third report to Council upon receipt of Minister's approval to formally proceed with the revocation of the community land classification of the reserve.

It is also recommended that as option 1 may take anywhere between 6-12 months to finalise that a short term agreement be entered into with the School with a fee of \$1 if demanded and all associated costs in drafting the agreement be shared by both parties.

Option 2 - Retain and lease

Council can continue to retain ownership of the reserve and allow the school to continue to utilise and maintain the reserve at their cost. If Council proceeds with this option, it is recommended that a formal agreement is entered into by both parties outlining the proposed usage, responsibilities of maintenance and also ensure that Council is protected from any potential risk, injuries or claims that may result from the School's usage of the reserve.

As the School will continue to maintain the reserve at their costs, it is proposed that the annual fee be set at \$1 if demanded and all associated costs in drafting the agreement be shared by both parties.

Attachment

#	Attachment	Type
1	Attachment 1 - Westminster Reserve	PDF File

