

PURCHASE OF 13 GREEN STREET, HEALESVILLE PROGRESS TO COMMUNITY ENGAGEMENT

Report Author: Coordinator Property
Responsible Officer: Director Built Environment and Infrastructure
Ward(s) affected: Ryrie;

The author(s) of this report and the Responsible Officer consider that the report complies with the overarching governance principles and supporting principles set out in the Local Government Act 2020.

CONFIDENTIALITY

This item is to be considered at a Council meeting that is open to the public.

SUMMARY

Council has been offered opportunity to purchase 13 Green Street, Healesville (Lot 2 PS641028), a 1695m² section of vacant land from Victrack for a price equivalent to half its market value, on the provision the land remains for public open space.

Until 2018, the land had been leased by Council and maintained as a community open space, passive recreational area and meeting space, and as the site of a monthly Community Market.

In 2017, a community survey undertaken by Council indicated that 89.7% of community respondents supported Council purchasing the land at a price in the vicinity of \$400k, while 67.2% supported its purchase at a price of \$1.185 million (the market value of the land at that time).

More recent negotiation has seen Victrack now making a formal offer to Council to purchase the land for \$675,000 plus GST, which represents a discount of 50% on the current market value, on the provision that a restrictive use covenant is applied to the land restricting its use to a community open space. The proposed purchase could be funded entirely using Open Space Funds available to Ryrie ward.

It is recommended that Council commence community engagement via a Notice of Intent and seek the community views in respect of the potential purchase of the land in accordance with provisions of section 112 of the Local Government Act 2020.

At its conclusion, a report detailing submissions received through the engagement process would be presented to Council for a final decision on the proposed purchase.

RECOMMENDATION

That Council

- 1. Initiate engagement with the community on the proposed purchase of 13 Green Street, Healesville pursuant to section 112(3) of the Local Government Act 2020.***
- 2. Receive a further report on submissions received through community engagement to allow a final decision on the proposed purchase of 13 Green Street, Healesville.***
- 3. Support in principle to the formal offer from Victrack to acquire 1695m² of land at 13 Green Street, Healesville (Lot 2 PS641028), for its ongoing use as public open space at a cost of \$675,000.00 (exclusive of GST).***
- 4. Propose that the purchase be funded utilising Public Open Space Funding available to Ryrie Ward.***

RELATED COUNCIL DECISIONS

13 December 2016 - Consideration of Planning Scheme Amendment C108 – 13 Green Street, Healesville – This report considered 13 Green Street's inclusion as part of Planning Scheme amendment C108.

12 December 2017 - Possible Purchase of Victrack Land, 13 Green Street, Healesville – The report considered the purchase the land at the full asking price (highest and best use value) of \$1.185 million, having undertaken 2 community surveys seeking community feedback on the matter. Council resolved to withdraw from the First Right of Refusal process, and continue with purchase only if a price not exceeding \$500,000 could be achieved.

10 December 2019 - Proposed Rezoning Victrack Land, 13 Green Street, Healesville – This report considered Victrack's proposal to rezone the land from Public Use Zone to a Commercial Zone.

DISCUSSION

Purpose and Background

Council has been formally offered the opportunity to purchase from Victrack 1695m² of land at 13 Green Street, Healesville (Lot 2 PS641028), for \$675,000 plus GST which represents a discount of 50% on the current market value, on the provision that a restrictive use covenant is applied to the land restricting its use to a community open space.

Council was first made aware of Victrack's intention to sell 13 Green Street in July 2017, with Council at that time occupying and maintaining the open space under a tenancy arrangement which expired in 2018. Since the conclusion of the lease, Council has not managed or maintained the site.

Council has engaged in various negotiations with Victrack since 2017 to have the land retained as community open space through either a new long term lease, or by acquiring ownership of the land for a favourable price. Community surveys undertaken to obtain community interest in Council purchasing the site highlighted a strong community connection with the land and desire to see the land retained as community open space. Though Council supported acquiring the land in-principle, its resolution to cap its financial offer to a maximum \$500,000.00 meant an agreement could not be reached at the time. Subsequent planning processes undertaken by Victrack saw the land rezoned from a Public Use to a Commercial Zone (C1Z) in order to ready the land for sale.

Renewed negotiations with Victrack throughout 2022 has resulted in a new formal offer being made to Council to purchase the property at a 50% discounted price, on the basis that Council retain the land for municipal use/open space. A valuation by the Valuer General Victoria, ordered jointly by Council and Victrack and received in January 2023, delivered a market valuation of \$1,350,000.00 (GST Exclusive), meaning the land is available for Council to purchase for \$675,000.00 (GST Exclusive).

With the valuation having been confirmed and the formal offer now received, Council is in a position to re-engage with the community to obtain feedback on a proposal to purchase the land. At the conclusion of the engagement period, a report containing a summary of submissions received would be presented to Council for a decision on whether or not the land will be purchased.

The land measures 1,695 sq. metres and has a 60 metre (approximately) frontage to Green Street on its eastern boundary, a 30 metre frontage to River Street to the north, and is bordered by a laneway (Taber Lane) to its south. It lies directly adjacent to a 0.5 hectare section of Council owned land (80 River Street), which has been developed as an asphalted carpark. While a small section of the site adjacent to Taber Lane is used for parking, the vast majority of the site is vacant, grass covered open space.

The land is currently zoned Commercial 1 Zone (C1Z), in line with adjacent commercial properties, and located approximately 55 metres north of Maroondah Highway. The land is subject to a Land Subject to Inundation Overlay (LSIO) and Design and Development Overlay 12 (DDO12). Environmental testing has also found the land to carry moderate levels of contamination due its historical railyard and motor mechanic use, which is detailed in the Environmental Implications section of this report. While the levels of contamination present would require further human health investigation where 'sensitive' use was proposed, such as for child-care or residential development, it does not cause an impediment to the land being used for its current and proposed future use as a community open space.

Until 2018, Council was a long-term lease holder for the land, which it held as a community open space. Over time, the local community has become accustomed to

using the as a community gathering space and as the site for the Healesville Community Market which has been held one day per month for over 30 years.. If Council opted not to purchase, the site would likely be sold by Victrack on the open market for commercial use, which would result in commercial development and the open space being lost.

Options considered

- That Council commence a community engagement process seeking feedback on a proposal to purchasethe land.

In preparation for this report, Council has engaged with Victrack to undertake a joint revaluation of the land by the Valuer General Victoria.

If Council supports in-principle a proposal to acquire the land, a community engagement process would be undertaken through which Council would receive community feedback regarding the proposal.

Any purchase from Victrack would be on the basis that the land would be sold for 50% of current market value, conditional on the land remaining as community accessible open space in perpetuity.

- That Council elect not purchase the land.

Council could elect to notify Victrack that it is not interested in purchasing the land, thus allowing Victrack to progress its original plans to sell the land on the open market as a commercial property. Sale of the land would likely eventuate in some form of commercial development of the land leading to the community open space being lost.

Public Open Space funds available to Ryrie Ward could be utilised for alternative recreation or open space projects within the ward, in line with provisions of the Subdivision Act 1988.

Recommended option and justification

It is recommended that Council commence a community engagement process pursuant to section 112 of the Local Government Act 2020, seeking community feedback on its proposal to purchase the land for the following reasons:

- Strong community feedback received in recent years to have the land retained as community accessible open space, as demonstrated through Council led community surveys and structure planning processes.;
- Purchasing the land would help to address projected open spaced deficiencies in the region, identified by principles of the Public Open Space Strategy and Healesville Structure Plan. The proposed restriction on the land to remain as public open space does not impede Council's proposed future use of the site as a community space; and

- The land purchase could be funded entirely through available Public Open Space Funds for Ryrie ward, which is an appropriate use of these funds under provisions of the Subdivision Act 1988.

If Council elects to pursue the purchase, a community engagement process would be commenced in the following weeks to seek community views on the proposal, which would then result in a further report being presented to Council for a final decision on whether or not it will purchase the land.

FINANCIAL ANALYSIS

In January 2023, the Valuer-General Victoria valued the land at 13 Green Street at \$1,350,000.00 (GST Exclusive).

Council has been offered the the opportunity to purchase the land for \$675,000.00, which represents a 50% discount from current market value, on the basis the land remain as a community space in perpetuity.

The purchase price of the property could be covered entirely using Public Open Space fund for Ryrie Ward, which as of 30 June 2022 had a baalance of \$1,470,000.00 (around \$62,000 of which is currently allocated for alternate projects in Ryrie ward this financial year).

Current trends indicate that Ryrie Ward generates approximately \$155,000.00 per annum in Public Open Space funding.

Public Open Space Fund

The Subdivision Act 1988 has provisions in place enabling Council to either obtain land or cash in lieu from subdivisions up to a value of 5 percent of the land. In accordance with the Subdivision Act 1988, Council must use any payment towards public open space it receives to;

- buy land for use for public recreation or public resort, as parklands or for similar purposes; or
- improve land already set aside, zoned or reserved (by the Council, the Crown, a planning scheme or otherwise) for use for public recreation or public resort, as parklands or for similar purposes.

Council has adopted the practice of funding the purchase of land for public open space with public open space contributions derived from the ward in which that land is located. The rationale behind this practice is that the public open space contributions collected in areas which have experienced increased housing density through subdivision will enjoy the benefits of new or improved open spaces funded by the public open space contributions collected from developers subdividing land in those areas. Council has received legal advice confirming there is nothing improper about this practice.

Ongoing costs if purchased

The proposed purchase of the site will lead to ongoing costs associated with routine maintenance. General mowing of the area can be absorbed within the current Parks & Bushlands operations.

APPLICABLE PLANS AND POLICIES

The Healesville Structure Plan (the Plan), adopted by Council in August 2016, identifies the land as a potential strategic acquisition, with Action 4.9 of the Plan being that Council:

“Investigate the feasibility of purchasing the Victrack land on the corner of Green Street and River Street or entering into a long term lease to provide an open space area abutting the River Street carpark”

A long-term lease was previously sought by Council, but not agreed to by Victrack at the time. The Plan also identifies the land’s role as open space and a venue for the community market:

“The Victrack land on the south-west corner of Green St and River St is the subject of Amendment C108 to the Yarra Ranges Planning Scheme. It is proposed to rezone the land to Commercial 1 (now completed). However this land currently provides open space adjacent to car parking areas and forms part of the land used for the community market. Further discussions with Victrack are proposed with a view to retaining the land as open space.”

Council’s Recreation and Open Space Strategy does not specifically identify the land as a key strategic acquisition site, however, makes the following general observations about recreational open spaces in the Healesville and Yarra Glen district:

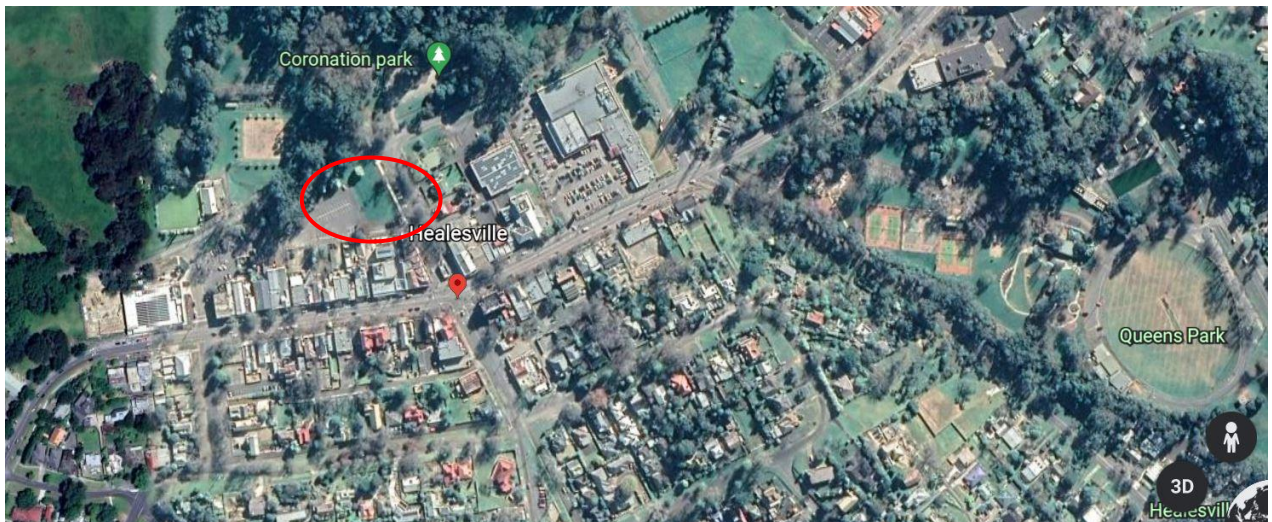
“Healesville and Yarra Glen areas have enough open space to meet existing demand. Open space takes the form of sporting reserves, outdoor courts and community parks offering social recreation and relaxation opportunities and retarding basins.”

“The quality of existing open space in the Healesville and Yarra Glen precinct needs to be improved to offer more varied recreation.”

The implementation plan relating to open spaces in the district includes the following action listed as ‘ongoing’:

“Improve the quality and diversity of recreation opportunities at local social recreation parks”.

While Healesville is served well by Coronation Park to north and Queens Park to the east, this is the largest piece of open space within the activity precinct.



RELEVANT LAW

The purchase of land is undertaken under the provisions of the Local Government Act 2020. Section 112(3) of the Local Government Act 2020 requires that Council undertake a community engagement in line with its Community Engagement Policy before purchasing or acquiring land for municipal use.

Council's obligations regarding the use of proceeds from the sale of public open spaces are defined under section 20 of the Subdivision Act 1988.

SUSTAINABILITY IMPLICATIONS

Economic Implications

Aside from the land having traditionally been used for a monthly community market, there are no particular economic implications associated with the acquisition of this property.

Social Implications

Community surveys conducted in recent years reveal that 13 Green Street is particularly valued by the local community as a popular meeting place and quiet retreat just off the often-busy commercial strip.

Open space, such as 13 Green Street, provides a much-needed place for people to exercise and escape from their homes supporting both physical and mental health. It also offers opportunities for social connection. As Covid restrictions eased, parks allowed for small groups to socially distance outdoors and further supported reconnection and the increased physical and mental health of people.

Parks are often used as gathering places for people of all ages, further demonstrating their value in social connection. Large parks over 1600sq.m. have proven to encourage people to walk further distances, and diversity of activity within parks attracts greater numbers to use the space.

The Healesville Structure plan and subsequent community surveys results revealed a strong local community sentiment toward the land remaining as open space for community use, with submitters citing the land's role as a community gathering space and its utilisation by the popular Healesville Community Market one day per month for over 30 years. Some of those in opposition to purchasing the land however expressed strong views on the need for other improvements in and around Healesville Township where they suggest funds would be better utilised, that the purchase price is excessive, and that the township already possesses adequate open space.

Environmental Implications

The land is predominantly a vacant grassed area and does not contain any particular environmental or habitat value.

In 2011, a Phase 1 and 2 Environmental Site Investigation report was undertaken by Victrack to establish land contamination risk, given the site's history as railway land and the site of a motor mechanic's workshop, understood to have been burnt down in 1985.

Although the report noted that surface fill materials showed evidence of ash and elevated levels of some heavy metals, levels are considered within acceptable limits for 'non-sensitive' uses such as commercial or recreation. A follow-up investigation (Phase 2) found that the past uses have not led to pollution of the local groundwater.

The Phase 2 assessment concludes (in part):

"Maximum lead concentrations suggest that a further human health investigation would be required where the future land use is 'sensitive', however, metal concentrations are all considered acceptable for recreational or business purposes."

'Sensitive' uses include such things as residential dwellings or child-care facilities, none of which would be proposed uses of the land by Council. If Council chose to purchase the land, the effect of applying a restrictive covenant to limit the use of the site to being a community open space, and/or having the land re-zoned to Public Park and Recreation Zone (PPRZ) would limit the opportunity for any 'sensitive' use from being inadvertently applied to the site in the future.

Any subsequent future proposal to re-zone the land back to a zone which would facilitate sensitive use would require further environmental site assessments at that time.

COMMUNITY ENGAGEMENT

In 2017, Council undertook two community surveys to gauge community interest in obtaining the land. Both were undertaken prior to the more recent negotiated position to purchase at 50% market value.

Community Survey 1 (Jul-Aug 2017)

Proposal for Council to acquire the land, based on Victrack's initial estimated sale price assessment of around \$400,000, which since proved to be an inaccurate estimation of the value.

Of 184 respondents:

In support of Council purchasing the land	89.7%
Oppose purchasing the land	7.6%
Undecided	2.7%

Written submissions were also received from the Healesville Community Market and Healesville Action Group, both in favour of Council purchasing the land.

Community Survey 2 (Oct-Nov 2017)

Proposal to purchase based upon a formal valuation issued by the Valuer General Victoria of \$1.185 million (Oct 2017).

Of 131 respondents:

In support of Council purchasing the land	67.2%
Oppose purchasing the land	31.3%
Undecided	1.5%

Of the 41 negative responses, 20 were Healesville residents, with the remainder residing outside Healesville.

Proposed Community Engagement – In line with s112(3) of the Local Government Act 2020

With Council now having received a formal offer from Victrack to transfer the land to purchase the land for a 50% discounted rate of \$675,000, officers propose to commence a community engagement process, as required under provisions of the Local Government Act, to obtain community feedback on the proposal.

Section 112(3) of the Local Government Act 2020 requires that a purchase or acquisition of land must be undertaken in accordance with the Council's community engagement policy.

Council's community engagement policy recognises that community engagement plays a critical role in ensuring Council decisions reflect the needs and expectations of the community and other stakeholders. The policy is guided by the International Association of Public Participation (IAP2) Spectrum. This identifies five levels of engagement and details Council's promise to the community for each level of engagement ensuring that both the community and Council have shared expectations.

In line with the policy, it is proposed that Council undertake Participatory Engagement with the community, which typically involves either informing the community using methods such as fact sheets, information sessions or website updates or consulting with community using methods such as surveys, inviting submissions, drop-in sessions, and polling.

In this instance, officers propose to seek community views on the proposal through issuing a Notice of Intent through local newspaper and social media advertising, website page, onsite signage and local letter drop where relevant, and inviting public submissions can be submitted to Council through a 'Have Your Say' page set up on Council's website.

A report, summarising submissions received would then be presented to Council for decision on whether or not Council should purchase the land from Victrack for a price of \$675,000.00 (excluding GST), on the basis that the land be protected for public open space in perpetuity.

COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT

Not relevant.

RISK ASSESSMENT

Ryrie ward's Open Space Fund reserve contains sufficient funds to purchase the land without the need to supplement funds through other means such as land sales or use of cash reserves.

The land is currently zoned for Commercial use. If Council opted not to purchase the land for open space, Victrack have indicated they would pursue sale at highest and best use which would likely see the land developed for commercial purposes.

CONFLICTS OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

ATTACHMENTS TO THE REPORT

1. Site Plan – 13 Green Street, Healesville