

## **PURCHASE OF 13 GREEN STREET, HEALESVILLE**

---

Report Author: Coordinator Property  
Responsible Officer: Director Built Environment & 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 a 1695m<sup>2</sup> section of vacant land at 13 Green Street, Healesville (Lot 2 PS641028) 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 early 2023, Council received a formal offer from Victrack that it would sell Council the land for \$675,000 plus GST, which represents a discount of 50% on the current market value as determined by the Valuer General Victoria. This is on the condition that a restrictive use covenant is applied to the land, restricting its use to community open space. The proposed purchase can be funded entirely using Public Open Space Funds available to Ryrie ward.

On 14<sup>th</sup> February 2023, Council resolved to commence community engagement to seek the community views in respect of the potential purchase of the land pursuant to the provisions of section 112 of the *Local Government Act 2020*. Council's subsequent community engagement period saw 98.15% of respondents comment in favour of Council purchasing the land.

Given the overwhelmingly positive community feedback, it is recommended that Council confirm to Victrack its intent to purchase the land under the agreed terms and proceed with procedures necessary to affect the transaction and have the land transferred into Council ownership.

## RECOMMENDATION

### *That Council*

- 1. Note feedback received during the recent community consultation period for the proposed purchase of land at 13 Green Street, Healesville**
- 2. In accordance with Section 112 of the Local Government Act 2020, accepts the formal offer from Victrack to purchase the 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).**
- 3. Approve that the purchase be funded utilising Public Open Space Funds available to Ryrie Ward.**
- 4. Delegate authority to the Chief Executive Officer to proceed with the purchase of 13 Green Street, Healesville including the signing of all documentation relating to the purchase.**

## 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 – The report considered Victrack's proposal to rezone the land from Public Use Zone to a Commercial Zone.

14 February 2023 - Purchase of 13 Green Street, Healesville, Progress to Community Engagement – Following receipt of a formal offer from Victrack, Council resolved to commence a community engagement process, seeking community views on its proposal to purchase 13 Green Street from Victrack for a 50% discounted price of \$675,000 on the basis the land remain a community space in perpetuity.

## DISCUSSION

### *Purpose and Background*

Council has been formally offered the opportunity to purchase from Victrack 1695m<sup>2</sup> 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 resulted in a new formal offer being made to Council to purchase the property at a 50% discounted price, on the condition that Council retain the land as community 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).

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 land 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.

On 14 February 2023 Council considered a report regarding possible purchase of the site, Council resolving to:

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 1695m<sup>2</sup> 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); and
4. Propose that the purchase be funded utilising Public Open Space Funding available to Ryrie Ward.

During the subsequent community engagement process undertaken between 20 February and 19 March 2023, 98.15% of community respondents commented in support of Council purchasing the land for the nominated price.

A more comprehensive summary of community engagement results is shown in the Community Engagement section of this report.

### ***Options considered***

That Council elect to purchase the land.

Purchasing the land 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***

Given the strong community support received through the community engagement process toward Council's proposal to purchase, it is recommended that Council confirm to Victrack its intent to purchase the land under the agreed terms and proceed with procedures necessary to affect the transaction and have the land transferred into Council ownership.

The officer recommendation to purchase is made for the following reasons:

- 98.15% positive response rate from respondents to Council's recent community engagement process (20 February 2023-19 March 2023);
- Strong community support received from past engagement in recent years to have the land retained as community accessible open space, as evidenced 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.

### **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 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 balance 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 this is an appropriate practice.

### ***Ongoing Costs***

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, Trees & Trails 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 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 and businesses supporting both physical and mental health. It also offers opportunities for social connection.

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 or 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 agreed to purchase the land, the effect of applying a restrictive covenant to limit the use of the site to being 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**

Section 112 of the *Local Government Act 2020* requires that:

*"... Any purchase or compulsory acquisition of land by a Council under this section 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, officers elected to undertake Participatory Engagement with the community for this property purchase proposal.

### ***Community engagement process***

Council's community engagement process commenced on 20 February 2023 and ran through until 11:59pm on 19 March 2023.

A social media advertising drive via Facebook and Instagram, targeting all genders and age demographics over 18 years old, reached 24,609 accounts resulting in a total of 25,918 views. This resulted in 210 link clicks through to a 'Have Your Say' information and feedback page which was posted on Council's website.

A direct letter drop was not thought to be practical in this instance given the location of the land away from residential areas and the large local population.

### ***Community feedback***

The 'Have Your Say' page received a total of 1094 views from 948 unique visitors. The page sought response to the question 'Do you think Council should purchase 13 Green Street from Victrack for \$675,000?'

Of 54 respondents to the question, 53 (98.15%) responded in support of Council purchasing the site. Only one respondent indicated Council should not purchase the site.

27 participants chose to leave additional comments resulting again in an overwhelmingly positive sentiment score of 96%. Un-edited comments are listed in the table below.

<b><i>Respondent</i></b>	<b><i>Support proposal?</i></b>	<b><i>Do you have any additional comments? (optional)</i></b>	<b><i>Respondent Postcode</i></b>
1	Yes	No additional comment	Not supplied
2	Yes	We like the grassy area. For music things. Kids playing. Having picnics	3777
3	Yes	Town needs open spaces for meeting and events. It's important not to fill every spot of my grass with development as open space is one of the major attractions of living beyond the suburbs. The land owned by victrack was designated by governments past. And not purchased. It should continued to benefit all the people and not just a few developers	3777
4	Yes	No additional comment	3777
5	Yes	No additional comment	3775
6	Yes	No additional comment	3775
7	Yes	The additonal green space in the middle of the street is a nice environment for the community to meet up and utilise.	3777
8	Yes	We need to keep it for such things as the Markets, and a lovely area for little events if ever needed besides our Sporting Complex areas.	3777
9	Yes	It is an important open space to keep available for community use in an increasingly over developed town.	Not supplied
10	Yes	No additional comment	Not supplied
11	Yes	An important green space for our town to support many local activities.	3777
12	Yes	No additional comment	3777

13	Yes	Go for it! What a deal! and a great way to have it as permanent public open space. Would be good for YRC to develop it as a recreation space- picnic tables, picnic shelter / gazebo , landscaping, art work/sculptures? It would really compliment Coronation Park which is now fantastic!	Not supplied
14	Yes	No additional comment	3777
15	Yes	It is a fantastic opportunity to secure the site for ongoing community use for markets and the like events and just to have a green space in the middle of town. The site is also very close to town toilet facilities and in a very handy location for locals and visitors to use on a daily basis.	3777
16	Yes	It would be a shame to have anymore buildings in this area	Not supplied
17	Yes	No additional comment	3777
18	Yes	This land should stay as a usable area for the community not be redeveloped under any circumstance.	3777
19	No	No additional comment	3777
20	Yes	No additional comment	
21	Yes	This green space is vital as an open green leisure space. As a tourist town, Healesville must retain its unique character, and open green spaces create the much sought after rural atmosphere. 3777 should not be absorbed into the Melbourne metropolitan sprawl. We must preserve the rural character of this town by resisting commercial development in this green space which is necessary to our famous monthly market. If our town does not reflect rural charm- people will bypass us and go to Warburton in increasing numbers. We do not wish to evolve into a claustrophobic semi-urban	3777

		capsule. We must not succumb to the lure of the development dollar, because it is a hollow, short-term enterprise.	
22	Yes	Yes! Please keep this green space in our beautiful town. No more ugly shops for tourists or horrible trashy food outlets. Free space for people and tourists to gather in.	3777
23	Yes	No additional comment	3777
24	Yes	community matters, keep the town with a country feel and it will attract more tourists and residents	3777
25	Yes	No additional comment	3777
26	Yes	No additional comment	3777
27	Yes	Brilliant! Great outcome for the community/markets etc.	3777
28	Yes	I believe that this space should be set up as a community picnic area so that people are able to purchase products from the business's in the main street and have somewhere to enjoy the products that isn't Queen's Park as that is already extremely busy on the weekends especially. I would also however like to see this space stay as apart of the market also.	3777
29	Yes	No additional comment	3777
30	Yes	No additional comment	3116
31	Yes	The town already has too many empty shops. We don't want it to become another suburb, with even more empty commercial premises. We need to maintain green space so	3777

		that the town retains its "village" appeal.	
32	Yes	We cannot allow more units to be built in Healesville as it's already overwhelmed with them. To keep that lovely green space in the middle of the town, would be lovely.	3777
33	Yes	A beautiful green space for picnics, including a range of tables and sitting options (with food purchased from vendors on the main road), and a small playground for kids would be a great use of the space. I often purchase food from one of the cafes on the main street but need to drive elsewhere to eat it. Having the option to walk to this green space with my kids would be great.	3140
34	Yes	No additional comment	3777
35	Yes	No additional comment	3777
36	Yes	Great initiative to purchase the land for community use. Don't let it fall into the hands of developers, who will irrevocably change the face and character of Healesville.	Not supplied
37	Yes	No additional comment	Not supplied
38	Yes	No additional comment	Not supplied
39	Yes	Bargain price for a much needed bit of open space	3777
40	Yes	No additional comment	3791
41	Yes	No additional comment	3777
42	Yes	No additional comment	3775
43	Yes	No additional comment	3140
44	Yes	Having this land protected to be used as public space in the long term is a great	3775

		bonus to the town	
45	Yes	No additional comment	3138
46	Yes	It must remain a green space	3777
47	Yes	Please ensure sufficient rubbish collection at this site.	3777
48	Yes	I think this is the best news I've had for a long time. The land in question is a much-needed "breathing space", and appreciated by stallholders and customers of the Healesville Market. The bright green grass lined by big shady oaks is beautiful and cooling.	3777
49	Yes	And definitely keep it as a green space for public use.	3777
50	Yes	No additional comment	3160
51	Yes	I'd like the land to be used for community use.	3777
52	Yes	No additional comment	3139
53	Yes	It is vital for 13 Green Street to remain as parkland/open space.	3777
54	Yes	No additional comment	3777

Of the 54 respondents, 30 requested to be linked to the Shaping page of the project and be notified of progress and outcomes.

### ***Pop-up Roadshow events***

Two Roadshow pop-ups were held in the main commercial precinct on 21<sup>st</sup> February and 10 March, where the proposed purchase was highlighted as a featured project amongst a number of other local issues. At those events, community members were provided information about the proposal and invited to visit Council's 'Have Your Say' page via QR codes and website links. The following written feedback was collected from visitors to the pop-up events.

Buy and keep as a park
Got to stay as parkland
Should be kept. Can we extend the carpark?
Performance space / ??? / kids play area

Obviously keep as open space
Yes, stay green, Don't need more development
Keep 13 Green Street
Supportive of purchasing
Good idea
Yes, keep as open space for the community
Support purchasing - keep as park and green space
Supportive of keeping it - more green space the better
More valuable as green space, support buying
Stay as green space, yes buy it!!
Stays as a park
Deciduous trees - would support purchasing.
A big YES!
Would like purchase, would love to see natives planted. Street furniture. No Oak trees.
Yes - but it, like it open
Support buying - would have liked land donated
Yes please
Yes definitely and seats
Green Street, Yes buy it
Yes! Public space with great potential for community events
Supportive of purchase > keep as a park >
Yes - keep as open space
Yes - purchase it!!
Keep as a park
Support buying don't want to see another carpark

***Past community engagements in relation to the land***

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%

### 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.

## **COLLABORATION, INNOVATION AND CONTINUOUS IMPROVEMENT**

Not relevant.

## **RISK ASSESSMENT**

Ryrie ward's Public 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
2. Community Engagement Data