

**C o m m i t t e e   r e p o r t   t o   C o u n c i l**

**Agenda item 5.2**

**Council**

**Proposed discontinuance of parts of Linlithgow Avenue, Melbourne in order to protect public open space**

**29 June 2021**

**Committee**            Submission (223) Committee

**Presenter**            Kim Wood, Chief Legal Counsel

**Purpose**

1.     The purpose of this report is to recommend the discontinuance of parts of Linlithgow Avenue, Melbourne in order to protect public open space, pursuant to section 206(1) and clause 3 of schedule 10 of the *Local Government Act 1989*.

**Consideration at Committee**

2.     Following consideration by the Submissions (223) Committee (the Committee) on 6 May 2021 (refer to Attachment 1), the Committee made a recommendation to Council as presented below.

**Recommendation**

3.     That Council:
  - 3.1    Discontinue parts of Linlithgow Avenue, Melbourne as proposed on the plan in the public notice published in The Age of 17 April 2021, for the reasons that:
    - 3.1.1    the Rockery Fountains occupying the two affected areas of road, are referred to in the Victorian Heritage Register for the Domain Parklands
    - 3.1.2    the affected areas are already constructed as parks and discontinuance will not impact on adjoining roads or users of those roads
    - 3.1.3    once discontinued, the resulting land can be reserved under the *Crown Land (Reserves) Act 1978* in association with the adjoining Domain Parklands.
  - 3.2    Notify in writing every person who has lodged a separate submission of the decision and reasons for the decision.

**Council Report Attachment:**

1.     Submissions (223) Committee, Agenda item 5.2 (Page 2 of 7)

**Management report to Submissions (223) Committee**

Agenda item 5.2

**Proposed discontinuance of a parts of Linlithgow Avenue, Melbourne in order to protect public open space****Submissions (223)  
Committee****Presenter:** Leon Wilson, Licensed Surveyor GIS Team**6 May 2021****Purpose and background**

1. This report addresses a submissions received to a proposed road discontinuance pursuant to section 206(1) and clause 3 of schedule 10 of the *Local Government Act 1989* ('the Act'), of parts of Linlithgow Avenue, Melbourne in order to protect public open space (the Land), as shown hatched on the attached plan (see Attachment 2).
2. The Director Planning and Building on 11 August 2020, acting under sub-delegated Council powers, approved commencement of the discontinuance and sale process subject to conditions which included public consultation (see Attachment 2 for a copy of the public notice).
3. The submission (see Attachment 3) raised objection to the removal of road area for traffic, indicating it is vital to keep open; otherwise the cars will congest other roads in the vicinity.

**Key issues**

4. No road surface area is being closed as part of this proposal; the area is already green space containing the Rockery Fountains as shown on the aerial and site photos (see attachment 2).

**Recommendation from management**

5. That the Submissions (Section 223) Committee:
  - 5.1. consider all written submissions in relation to the proposal and hear any person wishing to be heard in support of their submission and then make a recommendation to Council
  - 5.2. recommend Council notify in writing every person who has lodged a submission of its decision and the reasons for its decision.

**Attachments:**

1. Supporting Attachment (Page 2 of 6)
2. Public Notice and plans (Page 3 of 6)
3. Submission (Page 6 of 6)

## Supporting Attachment

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### Legal

1. Pursuant to sections 206(1) and clause 3 of Schedule 10 of the Act, Council has given public notice that it proposes to discontinue parts of Linlithgow Avenue, Melbourne in order to protect public open space.
2. If the proposal is successful the land will be reserved under the *Crown Land (Reserves) Act 1978* and the Council appointed committee of management.

### Finance

3. The discontinuance and surveying works are being funded through the Surveying Services Capital Works budget to better protect Council assets.

### Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a material or general conflict of interest in relation to the matter of the report.

### Health and Safety

5. In developing this proposal, no Occupational Health and Safety issues or opportunities have been identified.

### Stakeholder consultation

6. The proposal was given public notice. Overall the consultation involved:
  - 6..1. advertising in The Age on the 17 April 2021
  - 6..2. display on the Council website under Public Notices

### Relation to Council policy

7. The proposed discontinuance and sale complies with the Road Discontinuance and Sale Policy approved by Council on 30 May 2017.

### Environmental sustainability

8. This proposal will better protect the Rockery Fountains and a small area of green space.

**MELBOURNE CITY COUNCIL****Proposed discontinuance of a parts of Linlithgow Avenue, Melbourne in order to protect public open space**

Notice is given pursuant to sections 206(1) and 223 of the *Local Government Act 1989* (Act) that the Melbourne City Council (Council) proposes to discontinue the parts of Linlithgow Avenue, Melbourne shown hatched on the plan below (Proposal). The affected areas hold the historic Rockery Fountains and are intended to be reserved under the *Crown Land Reserves Act 1978* and the Council appointed the committee of management.

Any person may make a written submission on the Proposal to the Council. All submissions received by the Council on or before 15 April 2021 will be considered in accordance with section 223(1) of the Act, by the Council's Submissions (Section 223) Committee (Committee).

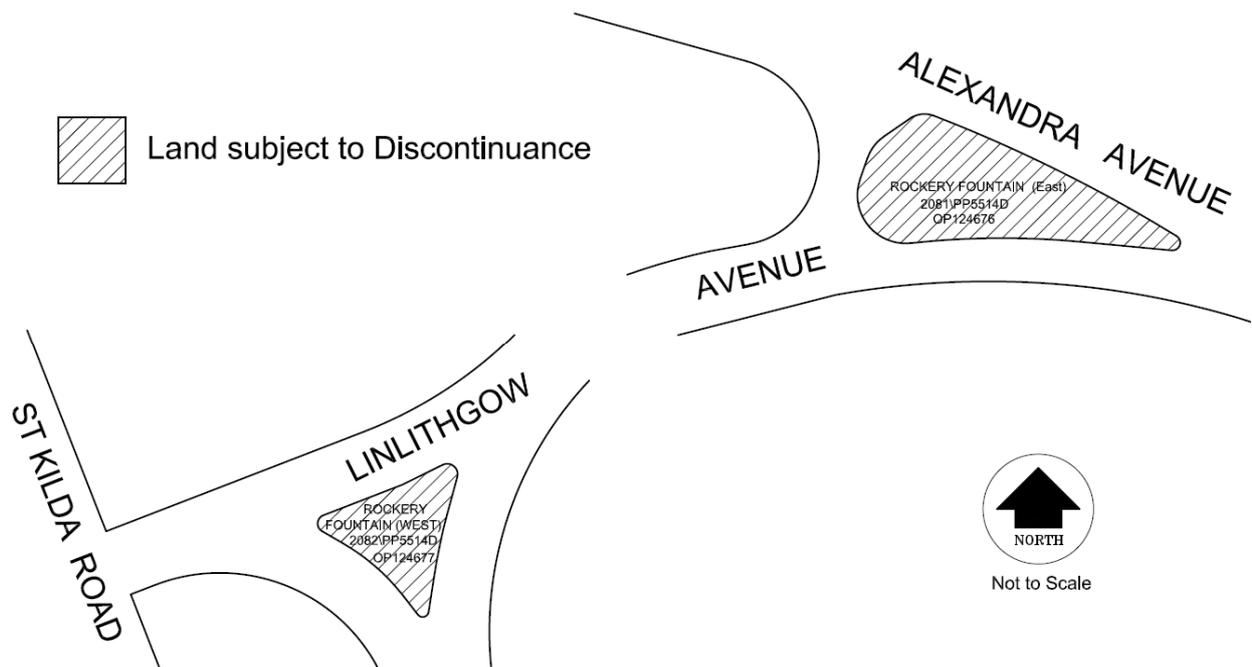
If a person wishes to be heard in support of their submission they must include the request to be heard in the written submission and this will entitle them to appear in person, or by a person acting on their behalf, before a meeting of the Committee, scheduled to be held on 6 May 2021, commencing at 3pm, in the Melbourne Town Hall, Administration Building, Swanston Street, Melbourne.

Written submissions should be marked 'Proposed discontinuance of parts of Linlithgow Avenue, Melbourne' and addressed to the Director Governance, Melbourne City Council, GPO Box 1603, Melbourne, 3001. Written submissions can be made via mail, email to [com.meetings@melbourne.vic.gov.au](mailto:com.meetings@melbourne.vic.gov.au) or on-line at <https://comdigital.wufoo.com/forms/rly4bj60tdagsq/>

**Written submissions cannot be delivered in person.**

Submissions form part of the public record of the meeting (including any personal information you provide) and will be published on Council's website (accessible worldwide) for an indefinite period. A hard copy will also be made available for inspection by members of the public at Council offices.

If you have any concerns about how Council will use and disclose your personal information, please contact the Council Business team via email at [privacy@melbourne.vic.gov.au](mailto:privacy@melbourne.vic.gov.au).



Aerial photo of areas being discontinued and proposed to be reserved for Public Park Purposes



Site photos



Photo 1 Rockery Fountain (west)



Photo 2 Rockery Fountain (east)

**From:**

**Sent:** Thursday, 15 April 2021 9:23 AM

**To:** Privacy <[privacy@melbourne.vic.gov.au](mailto:privacy@melbourne.vic.gov.au)>

**Subject:** Closure of Linlithgow Avenue to cars.

Hi

Please advise you have received my email.

Although this is a very short amount of road for traffic, it is so vital to keep open.

If closed, where will cars go?

They will just congest other streets around the area, including streets and roads in Stonnington.

Eg Domain Road, up to Darling Street Sth Yarra and back to Alexandra Avenue Sth Yarra.

Also for vehicles to go to Olympic Way.

There are a lot more.

I just needed to get this submission in before the end of today.

Thursday 15 April 2021.

Regards