

## Item 7.1 Joint Letter - Requesting Installation of a Gate to restrict Public Access to Lane

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### **Question from Councillor Baxter:**

Are there other examples where this sort of treatment has occurred before and, if so, does that effect things like adverse possession?

### **Response:**

Following receipt of a Joint Letter containing six signatures from adjoining neighbours, Council officers have prepared a report to be considered at the Ordinary Meeting of Council on 6 December 2023 proposing to restrict public access to lane R2243 (the Road), Princes Street Port Melbourne.

The Road is approximately 24 square metres in total area, and runs alongside 197 and 199 Princes Street, and to the rear of 55 Station Street.

In accordance with Schedule 10 of the *Local Government Act 1989*, Council may discontinue a Road then sell or retain the Land. Where council retains the Land from a Road discontinuance, it should ensure it is titled to Council. This is paramount, as Land owned by Council cannot be the subject of an adverse possession claim.

Although not common, there are instances in Victorian Local Government of Land that has been 'gated' to restrict access. Such examples include a private driveway managed by an owner's corporations, emergency vehicle pathways, and fire access tracks.

If Council was to discontinue the Road that is the subject of the Joint Letter and allow it to be gated, this would be done under a formal agreement between Council and the adjoining neighbours (such as a lease or a licence) that expressly outlines to all who are party to the agreement Council's ownership of the Land into the future.

*\*Please note: answers to any questions in Public Question Time and Councillor Question Time which were answered at the meeting are included in the minutes of that meeting.*