

**Report to the Future Melbourne (Finance and Governance)
Committee**

Agenda item 6.10

**Crown land regulations - Crown Land Reserves (Kings Domain)
Regulations 2013**

3 December 2013

Presenter: Kim Wood, Chief Legal Counsel

Purpose and background

1. The purpose of this report is to seek endorsement of the Crown Land Reserves (Kings Domain) Regulations 2013 (refer Attachment 2) to be used as the basis of future regulations in similar reserves in the City of Melbourne.
2. The current regulations date back to 1919. The regulations were made at a time where the Council did not have a power to make local laws. They are substantially obsolete having been superseded by legislation (i.e. the *Domestic Animals Act 1994* and the *Road Safety Act 1983*) or been made redundant with the relevant issues being dealt with under local laws.
3. At its meeting on 14 December 2010, the Future Melbourne Committee endorsed:
 - 3.1. the revocation of a number of out-dated regulations dating back to 1919 applying to various Crown reserves in the City of Melbourne
 - 3.2. the Chief Executive Officer writing to the Minister responsible for the *Crown Land (Reserves) Act 1978* requesting the Minister consider making a new single regulation under section 13 of the Act to apply to appropriate Crown land over which the Council is the Committee of Management
 - 3.3. discussions continuing between officers of the Council and the State in respect to the need for and content of any new regulation
 - 3.4. a further report on the outcome of the discussions with recommendations being presented to a future cycle of the Committee.

Key issues

4. The letter from the Chief Executive Officer to the Minister and his response are at Attachments 3 and 4.
5. Subsequent discussions between the administration and officers of the State have occurred resulting in agreement at officer level on the base form of future regulations. The new format removes matters that are appropriately dealt with in local laws.
6. The State requires a separate regulation for each distinct reserve. The first regulation developed is for the Kings Domain (refer Attachment 2). A current plan of the Kings Domain has been developed for the purpose of the new regulation (refer Attachment 5). It is proposed that future regulations for like reserves in the City of Melbourne would follow a similar format to that in Kings Domain.
7. It is intended that once made, the new regulation will be placed on the Council's website together with the plan of the reserve and a further plan using an aerial photograph for ease of understanding.

Recommendation from management

8. That the Future Melbourne Committee:
 - 8.1. requests the Minister responsible for the *Crown Land (Reserves) Act 1978* (the Act) make the Crown Land Reserves (Kings Domain) Regulations 2013 (Regulation)
 - 8.2. endorses the making of regulations under the Act in like reserves in the City of Melbourne in the same form as the Regulation suitably adjusted to meet the specific circumstances of the relevant reserve
 - 8.3. notes the preparation and making of the further regulations and associated plans will be carried out under delegation.

Attachments:

1. Supporting Attachment
2. Crown Land Reserves (Kings Domain) Regulation 2013
3. File copy letter from the Council dated 6 January 2011
4. Letter from the Minister dated 11 February 2011
5. Plan of Kings Domain

Supporting Attachment

Legal

1. Legal advice has been provided at all stages in the process.

Finance

2. There will be a fee to place the notice in the government gazette in respect to the making of the Regulation and subsequent regulations for other reserves. The fee will be paid from within the current approved budget.

Conflict of interest

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

Stakeholder consultation

4. There has been significant consultation within the administration and with the State through the Department of Environment and Primary Industries.

Environmental sustainability

5. No environmental sustainability issues or opportunities arise from the subject matter in the report.

Crown Land (Reserves) Act 1978
**CROWN LAND RESERVES (KINGS DOMAIN) REGULATIONS
2013**

I, Ryan Smith, Minister for Environment and Climate Change make the following Regulations:

Dated:

RYAN SMITH
Minister for Environment and Climate Change

PART 1 - PRELIMINARY

1. Objectives

The objectives of these Regulations are to—

- (a) provide for the care, protection and management of the Reserve; and
- (b) provide for the enjoyment and safety of persons in the Reserve;
- (c) provide for issuing of permits in relation to the Reserve; and
- (d) provide for the imposition, collection and receipt of fees, for or in respect of entry to the Reserve or any specified part of the Reserve or any improvement services or facilities on the Reserve (including carparks) by persons and vehicles.

2. Authorising provision

These Regulations are made under section 13 of the **Crown Land (Reserves) Act 1978**.

3. Commencement

These Regulations come into operation on the date they are published in the Victorian Government Gazette.

4. Revocations

The following regulations are revoked—

- (a) regulations for the care, protection, and management of Kings Domain in the City of Melbourne published in Government Gazette no. 156 on 19 August 1936;
- (b) additional regulations for the care, protection, and management of various reserves within the City of Melbourne published in Government Gazette no. 109 on 17 April 1941;
- (c) additional regulations for various reserves within the City of Melbourne published in Government Gazette no. 61 on 23 July 1980.

5. Definitions

In these Regulations-

appointed person means an officer or employee of the Committee appointed in writing by the Committee to perform functions under regulations 8 and 10;

Committee means the committee of management appointed to manage the Reserve under section 14 of the Act;

Reserve means the Crown land identified in the Schedule;

the Act means the **Crown Land (Reserves) Act 1978**.

6. Application of Regulations

- (1) These Regulations do not apply to any of the following persons acting in the course of their duties—
 - (a) a member of the Committee;
 - (b) an appointed person;
 - (c) any other officer or employee of the Committee.
- (2) These Regulations do not apply to a person acting in accordance with a lease, licence, authority or permit granted or issued under the Act or these Regulations in relation to land in the Reserve to the extent that the activities authorised by that lease, licence, authority or permit are inconsistent with these Regulations.

PART 2 - POWERS OF COMMITTEE

7. Restricted and prohibited access areas

- (1) The Committee may, by determination, set aside a specified area of the Reserve as being—
 - (a) a prohibited access area; or
 - (b) a restricted access area.
- (2) A determination under subregulation (1) may be made any of the following matters—
 - (a) reasons of public safety; or
 - (b) to carry out works on any improvement, service or facility; or
 - (c) any other purpose connected with the management and protection of the Reserve.
- (3) A person must not enter or be in a prohibited access area, unless that person does so under and in accordance with a permit issued under regulation 8.
- (4) A person must not enter or be in a restricted access area, unless that person does so—

- (a) in accordance with the determination of the Committee under which the area is set aside; or
- (b) in accordance with a permit issued under regulation 8.

8. Issuing of permits

- (1) The Committee may issue a permit in writing authorising the holder of the permit to use an improvement, service or facility or to enter or be in an area of the Reserve—
 - (a) for the purpose specified in the permit; and
 - (b) for the period specified in the permit.
- (2) A permit issued under subregulation (1) is subject to any terms and conditions in respect of entry or use specified in the permit by the Committee.
- (3) The holder of a permit must comply with the terms and conditions specified in the permit by the Committee.

9. Cancellation of permits

- (1) The Committee or an appointed person may cancel a permit if—
 - (a) the holder of the permit has contravened the terms and conditions of the permit or these Regulations; or
 - (b) the continuation of the permit is likely to be detrimental to, or interfere with the management and protection of the Reserve or persons in the Reserve.
- (2) If a permit is cancelled under subregulation (1), the Committee or an appointed person must cause the holder of the permit to be notified in writing of the cancellation within a reasonable time after the cancellation.
- (3) If a permit is cancelled under subregulation (1), the cancellation comes into effect when the holder of the permit receives notice of that cancellation in accordance with subregulation (2).

10. Obstruction of permit holders

A person must not interfere with or obstruct the entry or use of any improvement, service, facility or area in the Reserve—

- (a) by the holder of a permit; or
- (b) the holder's invitees.

11. Production of permit

A person who holds a permit issued under this Part must produce the permit for inspection when requested to do so by the Committee or appointed person.

12. Fees and charges

- (1) Subject to any determination made under subregulation (2), the Reserve is open to the public free of charge.
- (2) The Committee may determine any reasonable fees or charges that it considers necessary for—

- (a) entry to the Reserve; or
 - (b) for the use of improvements, services or facilities in the Reserve.
- (3) A person must not enter the Reserve or use the improvements, services or facilities within the Reserve without paying the appropriate fees or charges, if any, determined by the Committee under sub-regulation (2).
-

SCHEDULE

Regulation 6

Kings Domain

Situation and area of land:	City of Melbourne, Parish of Melbourne South, County of Bourke, 17.21 hectares, being Crown allotments 2008, 2039, 2058, 2077 and 2078.
Instrument and date of reservation:	Order in Council dated 22 May 1934.
Description of land by reference to Government Gazette:	Government Gazette dated 30 May 1934 page 1313
Purpose of reservation:	Site for Public Park
Part of reserved land that is subject to these Regulations:	Crown allotments 2039, 2058 and 2078 being the area shown hatched on plan LEGL./13-207

Situation and area of land:	City of Melbourne, Parish of Melbourne South, County of Bourke, being Crown allotments G1, J, 2051, 2052, 2053, 2055, 2057, 2063, 2064, 2065, 2066, 2067, 2068, 2073, 2074, 2075 and 2076
Instrument and date of reservation:	Order in Council dated 29 September 1873
Description of land by reference to Government Gazette:	Government Gazette dated 10 October 1873 page 1775
Purpose of reservation:	Site for Public Park and Gardens
Part of reserved land that is subject to these Regulations:	Crown allotments 2051, 2052, 2053, 2055, 2057, 2063, 2064, 2065, 2066, 2067, 2068, 2074 and 2076 being the area shown cross hatched on plan LEGL./13-207

NOTES

- (1) A person who contravenes these Regulations is liable to a penalty under section 13(5) or (6) of the **Crown Land (Reserves) Act 1978**.
- (2) In addition to these Regulations, the following laws also apply to activities within the Reserve—

Fishing

Fishing is governed by the **Fisheries Act 1995** and Regulations made under that Act and failure to adhere to that legislation may result in the imposition of penalties under that Act or Regulations made under that Act.

Litter

The depositing of litter in the Reserve is prohibited under the **Environment Protection Act 1970** and may result in the imposition of penalties under that Act.

Motor vehicles

Under the **Land Conservation (Vehicle Control) Regulations 2013**, motor vehicles are prohibited within the Reserve except on a road, in a parking area, in a place immediately adjacent to a road where parking is not prohibited, in an off-road access area where that class of motor vehicle is permitted, or in a restricted access area where that class of motor vehicle is permitted. A contravention may result in the imposition of penalties under those Regulations.

Wildlife

The taking, hunting or destroying of wildlife, including game, is regulated under the **Wildlife Act 1975** and Regulations made under that Act. A person who fails to comply with the requirements of that legislation is liable to the imposition of penalties under that Act and Regulations made under that Act.

- (3) The Reserve is described in plan LEGL./13-207 lodged in the Central Plan Office.

6 January 2011

The Honourable Ryan Smith, MP
Minister for Environment and Climate Change
Parliament House
Spring Street
MELBOURNE VIC 3002

Dear Minister

**REGULATIONS UNDER THE CROWN LAND (RESERVES) ACT 1978 -
MELBOURNE**

I write to advise that at its meeting on 14 December 2010, the Melbourne City Council's Future Melbourne Committee considered the status of various regulations made under the *Crown Land (Reserves) Act 1978* ('Act') applying to Crown land over which the Council is the Committee of Management.

The Committee resolved to support the revocation of the regulations referred to in the attached table and that I write to you requesting you:

- consider exercising your power to revoke these regulations and, in the case of the regulations in respect to the Queen Victoria Gardens and Memorial Statue, seek the approval of the Governor in Council for the revocation of the same; and
- consider making a new single regulation under section 13 of the Act to apply to appropriate Crown land over which the Council is the Committee of Management.

The regulations date back to 1919 and were made at a time where the Council did not have a power to make local laws. They are substantially obsolete having been superseded by legislation (i.e. the *Domestic Animals Act 1994* and the *Road Safety Act 1983*) or been made redundant with the relevant issues being dealt with under local laws.

Unlike local laws and most other regulations which sunset after 10 years, regulations made under the Act remain live until revoked.

Discussions have occurred with various officers of the Department of Sustainability and Environment on the process to remove the outdated regulations and their replacement with a single new regulation that aligns with current legislation and local laws. A draft of a possible regulation has been supplied to the Department for discussion.

I look forward to your consideration of the Council's request.

Yours sincerely

Dr Kathy Alexander
Chief Executive Officer

CoM reference

#6229994/SR 1437615

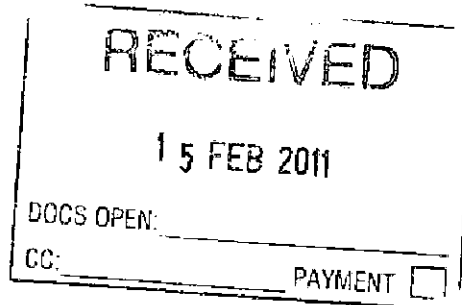


Minister for Environment and Climate Change

Ref: DSE075031

File: 1204287

Dr Kathy Alexander
Chief Executive Officer
City of Melbourne
GPO Box 1603
MELBOURNE VIC 3001



8 Nicholson Street
PO Box 500
East Melbourne Victoria 8002
Australia
Telephone: (03) 9637 8000
Facsimile: (03) 9637 8100
DX 210098

11 FEB 2011

Dear Dr Alexander



REGULATIONS UNDER THE CROWN LAND (RESERVES) ACT 1978 - CITY OF MELBOURNE

Thank you for your letter of 6 January 2011, regarding regulations for certain reserves under the *Crown Land (Reserves) Act 1978* within the City of Melbourne.

In your letter, you request that I consider exercising my power to revoke certain regulations for reserves where the council is the appointed committee of management, to seek the approval of the Governor in Council to revoke the regulations for the Queen Victoria Gardens and Memorial Statue Reserve, and to make a new single regulation under the provisions of section 13 (1) (b) of the Act for the committee of management controlled reserves.

I note your advice that some of the regulations date back to 1919 and that they are substantially obsolete having been either superseded by modern legislative provisions or have been made redundant with the relevant issues being generally dealt with under local laws.

I also note the above matters have been the subject of on-going discussions between officers of the City of Melbourne and the Department of Sustainability and Environment and that a draft of a possible new regulation has been previously submitted to the department.

I am pleased to provide my in-principle support to the council's proposal which will revoke outmoded regulations and provide a mechanism for the more efficient administration and management of the Crown reserves for which the council is the committee of management through a combination of local laws and a new streamlined regulation under the Act.

Privacy Statement


Any personal information about you or a third party in your correspondence will be protected under the provisions of the Information Privacy Act 2009. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Sustainability & Environment, PO Box 500, East Melbourne, 8002.



When final agreement on the wording of the new draft regulation is reached between the relevant council and department officers, I will again consider the matter with a view to formally facilitating the council's request.

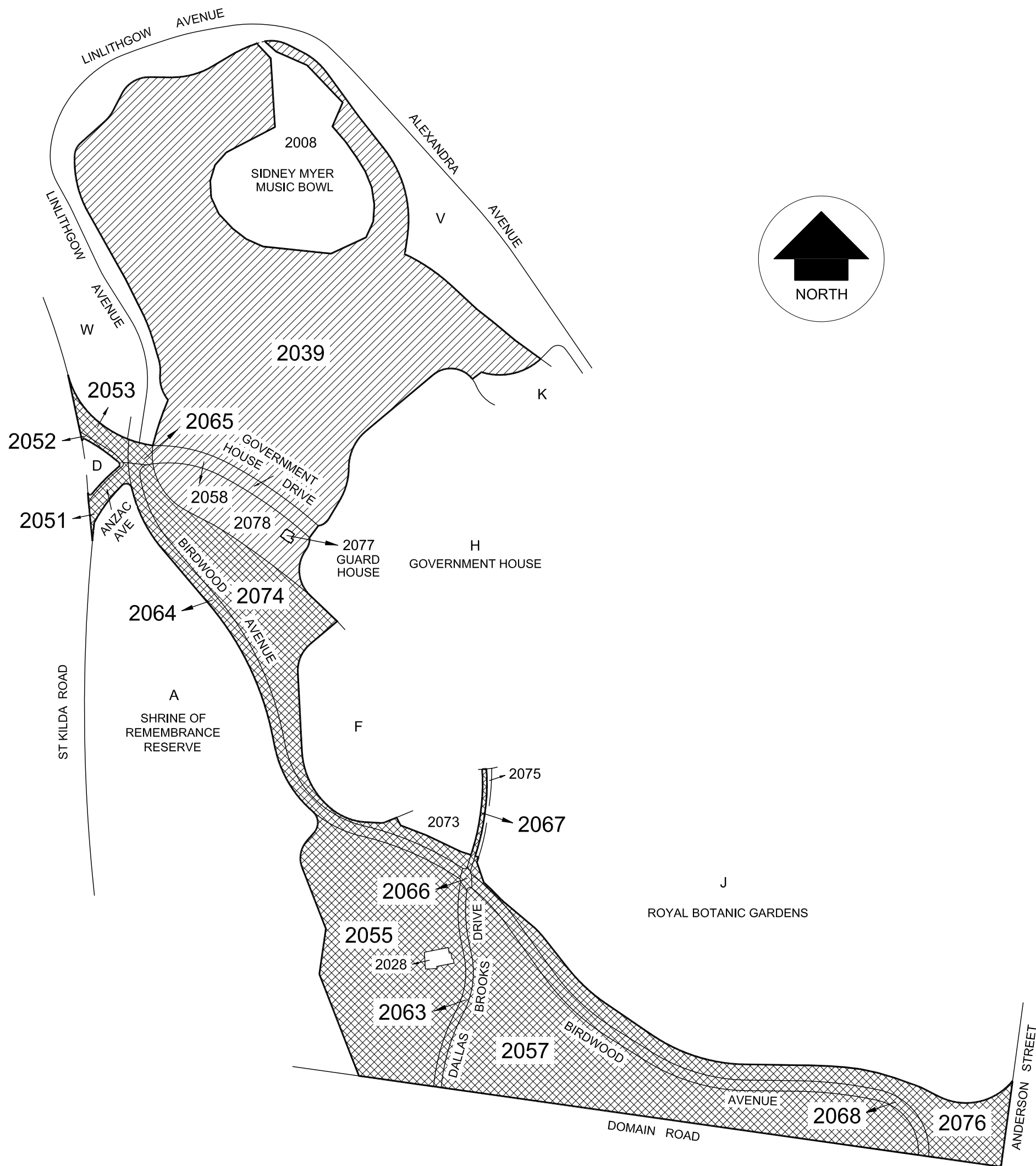
Thank you again for raising this matter with me.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R. Smith', written over a light blue horizontal line.

RYAN SMITH MP
Minister for Environment and Climate Change

CROWN LAND RESERVES (KINGS DOMAIN) REGULATIONS 2013



PLAN OF CROWN ALLOTMENTS
CITY OF MELBOURNE
PARISH OF MELBOURNE SOUTH

LEGL./13-207

City of Melbourne - May 2013