

Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025

Submission No:	437
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Publication:	Making the submission and your name public
Attachments:	See attachment
Submitter Comments:	

SUBMISSION ON THE PLANNING (SOCIAL IMPACT AND COMMUNITY BENEFIT) AND OTHER LEGISLATION AMENDMENT BILL 2025

Save Victoria Park Inc

Date: 20 May 2025

EXECUTIVE SUMMARY

Save Victoria Park Inc (SVP) contends that the Planning and Other Legislation Bill 2025 (POLA Bill) is a high-risk to the safeguarding of Victoria Park's unique cultural, heritage and environmental value. It undermines good governance and contravenes key legal principles. SVP puts forward that Victoria Park – Barrambin should not be included as an 'authority venue' and this legislation should not be supported by any Committee member who considers the fundamental tenets of our democratic system important to uphold. In summary the POLA Bill:

- disregards the Rule of Law posing significant risk to Victoria Park
- facilitates the construction of infrastructure which will completely dominate the park.
- disregards for the Separation of Powers increasing risk of corruption, especially with respect to the construction of unspecified Olympic villages.
- is misleadingly marketed as being needed for 'streamlining' and to 'prevent delay' however:
 - if the State was concerned about project delay it would not have chosen Victoria park which they know is a high risk and complex site given its topography, granite composition and location. This site choice increases risk of both project time and budget blowouts.
 - the State needs to disregard the law because otherwise it could not use the site for what they have proposed.
- is disrespectful to the First Nations community through truncating their consultation process.
- fails in its inconsistent approach which conveniently typecasts the impact of Olympic stadium builds as being less impactful on the community than the construction of solar panels and windfarms in rural area.

SVP represents the main advocacy group for this publicly owned land. To this end we would appreciate being given **the opportunity to present at the upcoming Committee Hearing on either 2 or 3 June, accompanied by SVP's lawyer, Sean Ryan from Ninox Law.**

BACKGROUND

Victoria Park was known as Barrambin to the First Nations community who inhabited this land for thousands of years, it was gazetted in 1875 by the visionary leaders of the day who recognised that growing cities needed large parks. It was to be the 'lungs of the city' and was a part of a global park movement which also saw the creation of Central Park and Hamstead Heath. Victoria Park at 64 hectares has already been halved in size. It represents the last remaining substantive inner city green space in inner-city Brisbane.

Victoria Park has major environmental and historical significance. Over its history multiple layers of legal protections have been applied to ensure it is not destroyed. It is important to note that:

- the entire park has local heritage listing (at Council level)
- the southern side of the park has State heritage listing. This is the site for the planned National Aquatic Centre.
- the northern side has recently been recommended by the CEO as it met the stringent criteria to be put forward to Queensland Heritage Council for State heritage listing. This is the site for the Olympic stadium and associated infrastructure.

It is without doubt that Victoria Park was integral to the shaping of the city and holds significant environmental, heritage and cultural value both in the pre and post European settlement periods.¹

This paper will outline why the heritage, cultural and environmental significance of Victoria Park – Barrambin can never be protected if the POLA Bill is passed and that this Bill is contrary to the fundamental legislative principles upon which democracy is based. It forms a poor precedent and should not be supported by politicians who care for governance based on transparency, accountability and good governance.

THE IMPACT OF THE POLA BILL ON VICTORIA PARK

There are fundamental issues associated with the POLA Bill, as outlined below.

1. The Bill circumvents the fundamental Rule of Law

The Rule of Law is the principle that all individuals and institutions—including the government—are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated. It ensures that no one is above the law and that laws apply uniformly across society.

Support for the POLA Bill fundamentally supports a disregard for the Rule of Law – a basic tenet for good governance. s53DD of the bill states that development, use or activity is taken to be lawful despite 15 acts designed to ensure responsible planning. These Acts specifically which no longer need to be complied with include the *Queensland Heritage Act 1992*, the *Environmental Protection Act 1994*, the *Nature Conservation Act 1992*, the *Vegetation Management Act 1999* and *Planning Act 2016*, among many others.

Under the POLA Bill when for example a homeowner wants to build a shed, renovate a house or remove a single tree they need to comply with planning, environment and heritage laws. However, when the risk to the heritage, environment, cultural significance could be easily deemed high/extreme the POLA Bill removes the laws protecting the site from excessive damage. When the magnitude of the risk is higher it would be logical to have greater assurance that safeguards are in place however the POLA Bill works on the reverse logic.

¹ See, for example, Ray Kerkhove (2019) Indigenous Historical Context VICTORIA PARK (FOUNDATIONAL PAPER), available at https://www.academia.edu/128644639/Indigenous_Historical_Context_VICTORIA_PARK

Similarly, the bill itself acknowledges that the development of the venues, villages and Games-related transport infrastructure is of significant public interest, having long-term impacts on the communities in which they are constructed. One would think this supports, rather than reduces, the need for robust community consultation and proper planning.

Many of the laws which currently protect Victoria Park were put in place post an era of unconstrained ‘development at all costs’ which occurred in Queensland during the 1970s and 1980s and resulted in significant destruction to Brisbane’s environment and heritage. The psychology of this loss remains in the psyche of many Queenslanders today.

During the 12th May 2025 POLA Bill Public Briefing Ms Kelly, Deputy Director-General, Infrastructure and Regional Services, Department of State Development, Infrastructure and Planning stated that, while the 15 stated laws will no longer apply to development at Victoria Park, this does not preclude “the need for detailed planning and assessment and considerations to be undertaken or community engagement”.² – but what considerations are these, who defines them, what analysis upholds them and who makes the call on whether they offer protection? Considerations are not laws, under the POLA Bill there is no protection against arbitrary rule placing Victoria Park at extreme risk.

Please Refer to Appendix A – legal analysis on the above presented by SVP’s lawyer, Ninox Law.

2. Olympic infrastructure will inevitably dominate the park regardless of design.

The designs of the two stadiums in Victoria Park (with a combined 88,000 capacity) are yet to be finalised. It has become evident, however, that the image of the Victoria Park stadium circulated by the State and highlighted in Appendix B, is misleading as it:

- fails to capture the scale and impact of the Olympic stadium.
- disguises the stadium in a significant tree coverage in areas where there will be a need for a concrete concourse, roads and associated infrastructure.
- misrepresents the retention of a significant number of mature trees.
- omits the impact of the warmup track, National Aquatic Centre, roads, bridges, corridors and associated undefined precinct.

SVP commissioned a more accurate representation of the impact of the stadium. These renders are contained in Appendix C. The renders demonstrate that there is major destruction of the park from the proposed stadium alone. Once the warm-up track, associated facilities, villages and related infrastructure are accounted for, it is clear the overwhelming majority of the park will be lost.

² Public Briefing—Inquiry Into The Planning (Social Impact And Community Benefit) And Other Legislation Amendment Bill 2025, Transcript Of Proceedings, Monday, 12 May 2025, p8.



The official State Government published render of the proposed Brisbane Stadium (circled in red), scaled onto Perth's 60,000-seat Optus Stadium. This image takes into account the actual site realities of Victoria Park and clarifies how a major oval stadium will overwhelmingly dominate this site. Using an accurate scaling system, this image also illustrates the grossly misleading nature of the official renders that have been used to promote a 63,000-seat stadium at Victoria Park.

It is illogical to suggest that the environment, heritage and cultural significance of the park can be preserved with this gravity of development.

It is important to note that in order to create flat platforms for the stadiums, the designers and constructors will essentially face two options:

- A. large-scale quarrying and flattening of the development sites in the park or alternatively;
- B. the erection of massive concrete retaining walls

For option A, substantial earthworks will be necessary. Due to the undulating nature of Victoria Park, this element of the project would require deep excavation into Brisbane tuff (notoriously hard granite rock) using blasting with explosives. This is an entirely inadequate construction activity to be employed in a built-up residential area, next to Queensland's largest hospital.

Due to the large quantity of rock to be removed (upwards of 100,000m³) this process could easily carry on for half a year, or more. The rock material unearthed would be unsuitable for reuse on the site, and therefore would require removal, adding long-term and significant construction traffic to the already congested Herston hospital precinct.

For option B, a scenario with stadiums positioned higher to minimise excavation, large retaining walls reaching up to 20 metres would be required on the lower side of the development. Contrary to the principles of the host city contract to ensure a sustainable Games, this process would require using tens of thousands m³ of concrete, a carbon intensive material that would grossly exacerbate the footprint of this event.

Furthermore, retaining walls would create hugely imposing edifices, completely changing the aesthetic of the park, and rendering it impossible for these stadium developments to in any way “consider” the environmental and cultural values of this site.

Whatever option is selected, taking into account the scale and long-term impact of the project, the park will be irreparably damaged and the environmental, heritage and cultural value of Victoria Park cannot be preserved.

It is also notable that these topological challenges did not face the Optus Stadium and are likely to significantly increase the projected project cost.

3. *The POLA Bill is misleadingly marketed as primarily required for ‘streamlining’.*

The State was fully aware that choosing Victoria Park meant it was choosing a high-risk site with its:

- sloping terrain
- hard rock granite
- location in a congested precinct surrounded by schools, residences and the largest State hospital (and its emergency)

The rationale propagated by the State for the POLA Bill is that it is primarily required to ‘streamline’ because of Labor’s delays. This is clearly misleading as it is clear that:

- a) the State needs the POLA Bill because it wanted Victoria Park as the site and therefore created the need to get rid of critical laws acting to protect the site.
- b) the State is working to solve its self-created problem resulting from having chosen a high-risk site, not naturally suitable for stadium development. It thereby increased the risk that the projects will not run on time and to budget (than if it had chosen a flat site).
- c) marketed Victoria Park as the only viable option when there were other alternatives which meant they did not have to change legislation to steamroll through otherwise illegal developments.

4. *POLA Bill disregards Separation of Powers*

The idea behind the separation of powers is that “power tends to corrupt, and absolute power corrupts absolutely”. Therefore to prevent corruption, power must be divided or separated.

The executive, the judiciary and the legislature are the principles that have been the foundation of democracies across the world to prevent one branch from wielding excessive power. Today in Queensland the separation of powers—the foundation of good, responsible government—is being dismantled by the Premier and a Deputy Premier through the POLA Bill.

Corruption, particularly in procurement, has been a recurring issue in the history of the Olympics. French authorities raided the Paris 2024 Olympics organising committee's headquarters in June 2023 as part of corruption investigations into contracts related to the Games, [according to ESPN](#) and [The New York Times](#). The investigations involved suspicions of embezzlement, favouritism, and illegal conflicts of interest. These investigations were part of a broader trend of corruption concerns surrounding Olympic Games, with this being the third consecutive Summer Olympics to face such allegations.

Closer to home, concerns have already been raised regarding the declared conflicts of interest of the Chair of the Games independent Infrastructure and Coordination Authority (GIICA).³ GIICA is also reportedly pushing to suspend normal procurement rules.⁴

Given this, it would seem at odds that the State would seek to enact a bill removing the judicial tool which would act to safeguard against corruption and excessive use of power by the Executive.

The combination of exemption from 15 planning and environment laws and court review creates an open wound in our legal protections which would invite corruption to fester.

Within the context of Victoria Park, it removes the right of the community to challenge any aspects of the design and build even when impacts would be logically seen as excessive.

5. *The application of the villages as 'authority venues' raises higher risk of Olympic corruption.*

Perhaps of even greater concern than how the POLA Bill applies to the venues is how it will apply to villages. The POLA Bill does not specify any villages in the schedules, and they will likely be added after the detailed design stages.

The removal of both the Rule of Law and Separation of Powers poses a significant risk of additional developments encroaching even further on the public parkland (as has clearly been lobbied for by private sector interests even prior to the Quirk Victoria Park recommendation was released in March 2024).⁵ The Executive can make 'captain calls' on the use of the land, excluding the public from consultation on decisions made for the use of this publicly owned land.

A recent Courier Mail article recently stated that it was an 'open secret' that the State was to sell part of Victoria Park for medium rise residential development to subsidise stadium costs.⁶ The POLA Bill

³ David Ross, 'Olympics Boss Rejects Conflict of Interest Claim over \$2.5bn Arena', The Australian (online, 31 January 2025) <https://www.theaustralian.com.au/nation/games-infrastructure-and-coordination-authority-chair-stephen-conry-made-declarations-over-perceived-conflicts-of-interest/news-story/2e492841bdd88b7dc6b8bb522f5152a4>.

⁴ Andrew Messenger, 'Brisbane Olympics Infrastructure Body Urges LNP to Fast-Track Controversial Venues with Special Laws', The Guardian (online, 27 March 2025) <https://www.theguardian.com/sport/2025/mar/27/brisbane-olympics-infrastructure-body-urges-lnp-to-fast-track-controversial-venues-with-special-laws>.

⁵ According to documents released under Right to Information laws.

⁶ Brendon O'Malley, '20-Year Plan to Turn Flood-Prone Kedron Brook into Green Precinct', The Courier-Mail (online, 7 May 2025) <https://www.couriermail.com.au/news/queensland/20year-plan->

ensures that the public may never be consulted about any type or form of Olympic developments on Victoria Park and there will be no recourse if the State decides to transfer even more public land into the hands of a selected few for their commercial benefit. This scenario poses higher risk for corruption.

6. *Disrespect for First Nations community*

Victoria Park is an important First Nation's site, and the State was aware of this when it chose the site. It clearly does not want to be beholden to the First Nations communities getting in the way of their desired stadiums site decision.

The State does not want the inconvenience of having to negotiate to achieve the best outcomes for First Nations so has conveniently chosen its avenue for a truncated consultation process.

7. *Bill inconsistency*

The Bill is inconsistent in that it seeks to:

- increase communication and community consultation on one hand for renewable energy projects while, at the same time.
- removing legislation offering the community the same rights with respect to Olympic Authority Venues such as Victoria Park.

The rationale for this inconsistency was explained at the 12 May 2025 Public Briefing session. Apparently, the State considers that wind farms and solar farms have a more significant impact than the Olympic authority venues in the city.⁷ This argument does not hold. The removal of a significant amount of park land, Brisbane which already has the lowest amount of inner-city green space of any Australian capital city will have inevitable negative long-term impacts for a larger local population. This impact will continue to be magnified as Brisbane's population increases.

Refer to Appendix D highlighting Brisbane's low level of inner-city greenspace.

CONCLUSION

The argument that this bill is required to build infrastructure necessary for the successful delivery of the Olympic and Paralympic Games, and to meet the requirements of the host city contract, does not hold considering Brisbane won hosting rites for this event based on widely publicised promises of economic and environmental sustainability and the use of existing venues. Indeed, in the pre-election Games bid (which is binding on the government) Victoria Park was singled out as a site for preservation, increased greening and potential re-wilding. Ironically, it appears the government is

to-turn-floodprone-kedron-brookinto-green-precinct/news-story/b408a5093f5fd44c59621e71d4cab18d

⁷ Public Briefing—Inquiry Into The Planning (Social Impact And Community Benefit) And Other Legislation Amendment Bill 2025, Transcript Of Proceedings, Monday, 12 May 2025, p12, per Ms Harwood, Deputy Director-General, Planning, Department of State Development, Infrastructure and Planning.

proposing to drastically change Queensland's law in order to flout rather than meet the requirements of the pre-election bid and the host city contract.

It has been argued that these new laws are required to expedite development to ensure important infrastructure is delivered for Queensland communities. However, this argument obfuscates the reality that these new laws are primarily needed to allow the government to pursue hitherto illegal developments in protected, heritage-listed public parkland. Most other major state infrastructure projects that will form part of the Olympic legacy can be delivered using existing legal pathways available to the government, without the need for heavy handed legislative changes that restrict human rights.

Essentially, this bill proposes that the needs of a four-week Olympic/Paralympic event should take precedence over Brisbane's environment and cultural heritage, our commitment to the rule of law and democratic processes, and safeguards against corruption. As the bill itself acknowledges, it will significantly limit our human rights, namely our fundamental right to freedom of expression and the right to fair hearing.

With this in mind, we strongly disagree with the Minister's claims that the proposed restrictions on human rights in this bill are proportionate, defensible and unavoidable. Rather, these restrictions are wholly inadequate and present a retrograde step for a society that values democratic process and the rule of law.

Regards

A large black rectangular redaction box covering the signature and name of the person who approved the document.

Approved by the Executive Committee,
for Save Victoria Park [Save Victoria Park](#)

Islands of Power

Rule of Law, Separation of Powers, Privative Clauses and the Olympics

8 May 2025¹

“To deprive a State Supreme Court of its supervisory jurisdiction enforcing the limits on the exercise of State executive ... would be to create islands of power immune from supervision and restraint.”

— *Kirk v Industrial Relations Commission of New South Wales* [2010] HCA 1 at [99]



View of Brisbane CBD from Victoria Park Barrambin, Source: Google Maps 6/5/25

Prepared by Ninox Law for Save Victoria Park Inc. to support community understanding of how the proposed [Planning \(Social Impact and Community Benefit\) and Other Legislation Amendment Bill 2025](#) (POLA Bill) may be inconsistent with **fundamental legislative principles: the rule of law and separation of powers.**

¹ Amended 11 May 2025.

1.0 Background

The area known as Barrambin has a long history of cultural use predating colonisation. In 1875, it was recorded in the gazette as Victoria Park and, despite being progressively reduced from 130 ha to 64 ha, remains the largest inner city park in Brisbane. It was used as a golf course for many decades until 2021 and, in 2023, after more than three years of community consultation, the government decided to open the area up to the community and protect and restore the park for future generations.²

Then on 20 March 2025, the State Government announced a plan to build an Olympic Stadium in Victoria Park / Barrambin³ (shifting from the previously announced plan to redevelop the Gabba).

There is already an act of parliament to facilitate development for the Olympics: *Brisbane Olympic and Paralympic Games Arrangements Act 2021 (Olympics Act)*, but the POLA Bill appears to go much further, in an apparent attempt to remove more legal obligations and reduce community rights of review.

2.0 Objects of the POLA Bill and Process for Submissions

The POLA Bill, among other things, amends the Olympics Act.

According to the [Explanatory Memorandum](#) the objective of the amendments to the Olympics Act are to:⁴

- “• streamline governance arrangements of the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games (Corporation) Board to support efficient and effective decision-making;
- ensure the Queensland Government has appropriate oversight of the Corporation and the Games Independent Infrastructure and Coordination Authority (Authority);
- ensure the functions and powers and composition of Games Independent Infrastructure and Coordination Authority (GIICA) are appropriate for their intended purpose;
- identify the endorsed venues and villages in line with the 2032 Games Delivery Plan;
- remove references to the 100 Day Review as this is complete;
- remove the requirements to prepare a Transport and Mobility Strategy and Games Coordination Plan as these functions will be reallocated to Government departments, being the Department of Transport and Main Roads (TMR) and Department of Sport, Racing and Olympics and Paralympic Games (DSROPG), respectively; and

² See, for example, the Victoria Park Master Plan available at

<https://www.brisbane.qld.gov.au/parks-and-recreation/park-projects/victoria-park-barrambin-master-plan>

³ Queensland Government, *Delivering 2032 and Beyond: Let the Games Begin* (Media Release, 25 March 2025) <https://www.thepremier.qld.gov.au/delivering-2032-and-beyond-let-the-games-begin.aspx>

⁴ Explanatory Memoranda, p2.

- streamline the planning approvals process for the development of, or relating to, venues or villages andc [sic] games-related transport infrastructure identified in the Act.”

The POLA Bill has been referred to the State Development, Infrastructure and Works Committee (**the Committee**) which will receive written submissions by **12 noon, 20 May 2025**, hold public hearings on 2 and/or 3 June and publish a report by 20 June 2025.

Submissions must include:

- the author’s full name
- if the submission is made on behalf of an organisation, the level of approval (e.g. a local branch, executive committee or national organisation), and
- at least **two** of the following:
 - email address
 - mailing address, and
 - daytime telephone number.

Your submission can include anything you think may assist the committee in understanding the issues associated with the Bill. A [Guide to Making Submission](#) is available online.⁵

This document explains some technical legal considerations that are likely to arise in relation to the Bill and submissions to the Committee.

3.0 Fundamental Legislative Principles

The Government acknowledges that the POLA Bill:⁶

“is potentially inconsistent with the following **fundamental legislative principles**:

- whether the legislation has sufficient regard to the rights and liberties of individuals and, more particularly
- that the legislation does not confer immunity from proceeding without adequate justification; and
- that the legislation has sufficient regard to Aboriginal tradition and Island custom.

To the extent that the provisions in the legislation will remove the usual approval and review processes there is justification for such a position, given the need to deliver the venues for the 2032 Games and to meet existing contractual commitments in that regard. The Bill provides for an alternate regime for addressing Aboriginal and Torres Strait Islander cultural heritage matters and sets requirements to ensure building work is subject to appropriate controls.” (our emphasis)

⁵

http://www.parliament.qld.gov.au/documents/committees/guidelines/Guide_MakingASubmission_WebVersion.pdf

⁶ Explanatory Memorandum, p11.

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Fundamental legislative principles are defined as “the principles relating to legislation that underlie a parliamentary democracy based on the **rule of law**”⁷ (our emphasis).

The principles include “requiring that legislation has sufficient regard to— (a) rights and liberties of individuals; and (b) the **institution of Parliament**”⁸ (our emphasis).

3.1 What is the Rule of Law?

The **rule of law** is the principle that all individuals and institutions—including the government—are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated. It ensures that no one is above the law and that laws apply uniformly across society.

This principle protects against arbitrary rule.

The **rule of law** requires that all persons, regardless of power or purpose, are subject to the same legal obligations—this is known as **equality before the law**.

For example, our planning, environment and heritage laws (e.g. the *Planning Act 2016*, *Environmental Protection Act 1994*, and *Queensland Heritage Act 1992*) apply pretty much to everyone with some limited exceptions. They will almost certainly apply to you if you want to build a shed in your backyard or demolish an old Queenslander. For example, requirements such as taking all reasonably practicable measures to prevent or minimize environmental harm (known as “the General Environmental Duty”) under [s319](#) of the *Environmental Protection Act 1994*, applies to all people (and governments) in Queensland carrying out activities that impact the environment, such as construction generating noise and dust impacting local residents.

In contrast, **s53DD** of the POLA Bill states:

"Development, use or activity declared to be lawful

(1) **The development**, use or activity is **taken to be lawful despite** the following Acts (each a relevant Act)—

- (a) the *City of Brisbane Act 2010*;
- (b) the *Coastal Protection and Management Act 1995*;
- (c) the *Economic Development Act 2012*;
- (d) the *Environmental Offsets Act 2014*;
- (e) the ***Environmental Protection Act 1994***;
- (f) the *Fisheries Act 1994*;
- (g) the *Integrated Resort Development Act 1987*;
- (h) the *Local Government Act 2009*;
- (i) the *Nature Conservation Act 1992*;
- (j) the ***Planning Act 2016***;

⁷ [Legislative Standards Act 1992](#) (Qld), s4(1).

⁸ [Legislative Standards Act 1992](#) (Qld), s4(2).

- (k) the *Queensland Heritage Act 1992*;
- (l) the *Regional Planning Interests Act 2014*;
- (m) the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*;
- (n) the *Vegetation Management Act 1999*;
- (o) the *Water Supply (Safety and Reliability) Act 2008*.” (our emphasis)

This provision essentially exempts certain development from all of the controls and processes under 15 different acts designed to protect our environment and heritage, including the General Environmental Duty.⁹

The ‘development’ that gains the benefit of those exemptions is determined by s53DC which provides:

“Application of part

This part applies to the following—

- (a) **development**, carried out after the commencement, **for the construction of—**
 - (i) an authority venue, other **venue or village**, **to the extent the development is for, or in relation to, a games-related use of the venue or village**; or
 - (ii) games-related transport infrastructure;
- (b) a games-related use or legacy use of an authority venue, other venue or village;
- (c) an activity carried out by a person for the purpose of development mentioned in paragraph (a).” (our emphasis)

Schedules to the POLA Bill state what is an “authority venue”, “other venue or village” or “games-related use”.

For example, Schedule 1 specifies “authority venues” including the following:

Column 1	Column 2	Column 3
Description of site or facility	Games-related use	Legacy use
a stadium to be located on land within the precinct known as Victoria Park, Herston Road, Herston 4006	a new stadium with seating for approximately 60,000 people, including a warm-up track and associated facilities	stadium with permanent seating for approximately 63,000 people and associated facilities

Therefore, the POLA Bill would make any construction of a declared **venue** (including the proposed Stadium in Victoria Park) or **village** for a games-related use **lawful** under 15 Acts, including the *Planning Act 2016*, *Queensland Heritage Act 1992* and the *Environmental Protection Act 1994*.

⁹ POLA Bill, s53DD(2).

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This is potentially inconsistent with the **rule of law**, and the principle of **equality before the law** because it creates one set of laws that apply to you and your backyard shed or house renovation and a special set of laws that only apply to a development for an Olympics venue or village.

The justification for this position is “the need to deliver the **venues** for the 2032 Games and to meet existing contractual commitments in that regard” (our emphasis).¹⁰

Perhaps of even greater concern than how the POLA Bill applies to the **venues** is how it will apply to **villages**.

The POLA Bill does not specify any villages in the schedules and they will likely be added after the detailed design stages.¹¹

Some of the preliminary concept sketches appear to envision significant villages in Victoria Park, such as in the following image:¹²



¹⁰ Explanatory Memorandum, p11.

¹¹ Explanatory Notes, p4, “It is intended that as detailed design of the villages and detail of games-related transport infrastructure progress, subsequent amendments will be undertaken for their inclusion.”.

¹² Accessed on 5 May 2025 from

<https://yourneighbourhood.com.au/wp-content/uploads/Arcadis-Victoria-Park-Strategic-Plan-Paper-2.jpeg>

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It has been recently reported that:¹³

One construction source said it was “an open industry secret” that land on the Victoria Park ridgetop, near the function centre and putt putt course, would be sold for medium rise unit development to offset the cost of the stadium.

These villages could comprise a significant residential and commercial development of considerable commercial value, built in a public park and potentially exempt from 15 planning, environment and heritage laws. What will happen to these developments after the Olympics? Will they remain in public ownership for low-cost public housing? Will they be privatised as reported? If so, how will Queenslanders be assured they have received value for money in the sale of their public assets?

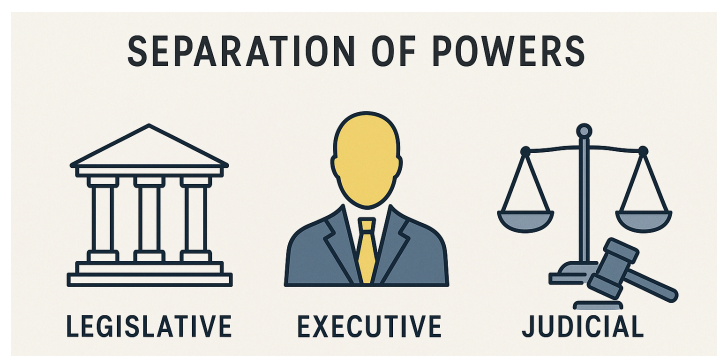
Close attention would need to be paid to **safeguarding against corruption** where there is a potentially significant transfer of wealth outside the normal checks, balances and safeguards provided by those 15 planning, environment and heritage laws.

3.2 What is the Separation of Powers?

Another fundamental principle underlying parliamentary democracy is the **separation of powers**. The idea behind the separation of powers is that, “power tends to corrupt, and absolute power corrupts absolutely”.¹⁴ Therefore to prevent corruption, power must be divided or separated.

The **separation of powers** is a legal doctrine that divides government responsibilities into three branches to prevent any one branch from exercising the core functions of another. The three branches are:

- **Legislative** – makes the law (Parliament);
- **Executive** – administers and enforces the law (Ministers and public service); and
- **Judicial** – interprets and applies the law (courts and judges).



¹³ Brendon O'Malley, '20-Year Plan to Turn Flood-Prone Kedron Brook into Green Precinct', *The Courier-Mail* (online, 7 May 2025) <https://www.couriermail.com.au/news/queensland/20year-plan-to-turn-floodprone-kedron-brook-into-green-precinct/news-story/b408a5093f5fd44c59621e71d4cab18d>

¹⁴ Attributed to Lord Acton, 1887.

Each branch acts as a check on the others. This balance prevents misuse of power.

3.3 Judicial Review - Access to the Courts

One important function of the **Judiciary** is to check that the **Executive** bureaucracy is acting within the powers given to it by the laws passed by the **Legislature**, a process called **Judicial Review**.

In practice some legislators are also the heads of executive departments (Ministers). Legislators sometimes pass laws that limit judicial review of the executive by the Judiciary; these are called **Privative Clauses**. An example is s53BB of the current Olympics Act:

“Decisions under part are final

(1) Unless the Supreme Court decides a relevant decision is affected by jurisdictional error, the **decision**—

- (a) is final and conclusive; and
- (b) **can not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity);** and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.” (our emphasis).

Essentially, this clause says you can’t challenge a government decision under that part of the Olympics Act *unless* it is “affected by **jurisdictional error**” (our emphasis).

That ‘jurisdictional error’ caveat comes from an important High Court case called **Kirk’s case**.¹⁵ In that case, the High Court acknowledged that the State legislature can limit judicial review, but the State’s Supreme Courts have a *constitutionally entrenched* role¹⁶ to ensure the executive stays within the **power** given to it by the legislature (i.e. is within jurisdiction). This is because judicial review for jurisdictional error is one of the core elements of the separation of powers in a parliamentary democracy.

As stated by the High Court in Kirk’s case:¹⁷

“To deprive a State Supreme Court of its supervisory jurisdiction enforcing the limits on the exercise of State executive and judicial power by persons and bodies other than that Court would be to create **islands of power immune from supervision and restraint**.” (our emphasis)

¹⁵ [*Kirk v Industrial Relations Commission of New South Wales; Kirk Group Holdings Pty Ltd v WorkCover Authority of New South Wales \(Inspector Childs\)* \[2010\] HCA 1.](#)

¹⁶ *The Constitution of Australia*, Chapter 3.

¹⁷ *Kirk v Industrial Court of New South Wales* [2010] HCA 1 at [99].

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Because this supervisory jurisdiction comes from Chapter 3 of the Commonwealth Constitution it can't be overridden by State legislation.¹⁸

However, the POLA Bill would repeal s53BB¹⁹ of the Olympics Act and introduce **s53DD(3)**, which applies to development for declared Olympic venues and villages,²⁰ and states:

- “Also, a **civil proceeding may not be started** against a person in relation to the development, use or activity if there is a reasonable prospect that the proceeding will prevent—
- (a) the timely delivery of an authority venue, other venue or village for the Brisbane 2032 Olympic and Paralympic Games; or
 - (b) the timely completion of games-related transport infrastructure.” (our emphasis)

This seems to say any court action, which is not criminal prosecution, cannot be brought if it will delay the declared venue or village. This does not appear to be limited to the 15 Acts mentioned earlier in the section but any court action under any statute or common law cause of action.

This new, broad, and sweeping provision is difficult to reconcile with the constitutionally protected role of the State Supreme Court in judicial review of jurisdictional errors, which is part of the separation of powers doctrine and fundamental to parliamentary democracy.

It is also worth noting that citizens' access to the Courts is a fundamental principle of the rule of law.

4.0 Conclusion

Aside from community concerns about the building of an Olympic Stadium in Victoria Park, the POLA Bill raises serious concerns about its consistency with the **rule of law** and the doctrine of **separation of powers**.

These fundamental aspects of our parliamentary democracy are designed to **safeguard against corruption** by ensuring laws are applied equally and fairly to everyone under the watchful eye of an independent judiciary.

By effectively exempting declared venues and villages from 15 planning and environmental laws and excluding any review by the Courts that may result in delay, the POLA Bill could create an ‘island of power immune from supervision and restraint’ through which very significant transfers of wealth could occur.

¹⁸ Commonwealth laws, including the Commonwealth Constitution, prevail over State laws due to s 109 of the *Commonwealth Constitution*.

¹⁹ POLA Bill, clause 57.

²⁰ POLA Bill, s53DC.

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5.0 What You Can Do

If you have concerns about the POLA Bill, including, for example, the proposed venues, exclusion of environmental laws and the exclusion of Court review, you can make a submission to the Committee. Submissions to the Committee are open until **12 noon, 20 May 2025**.

Guidance on how and where to make submissions is available here:

<https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=272&id=4521>

Legal Disclaimer – Current as of 6 May 2025

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APPENDIX B - QUEENSLAND STATE GOVERNMENT OLYMPIC STADIUM RENDER

Victoria Park Olympic Stadium – Brisbane 2032 Olympic Venue

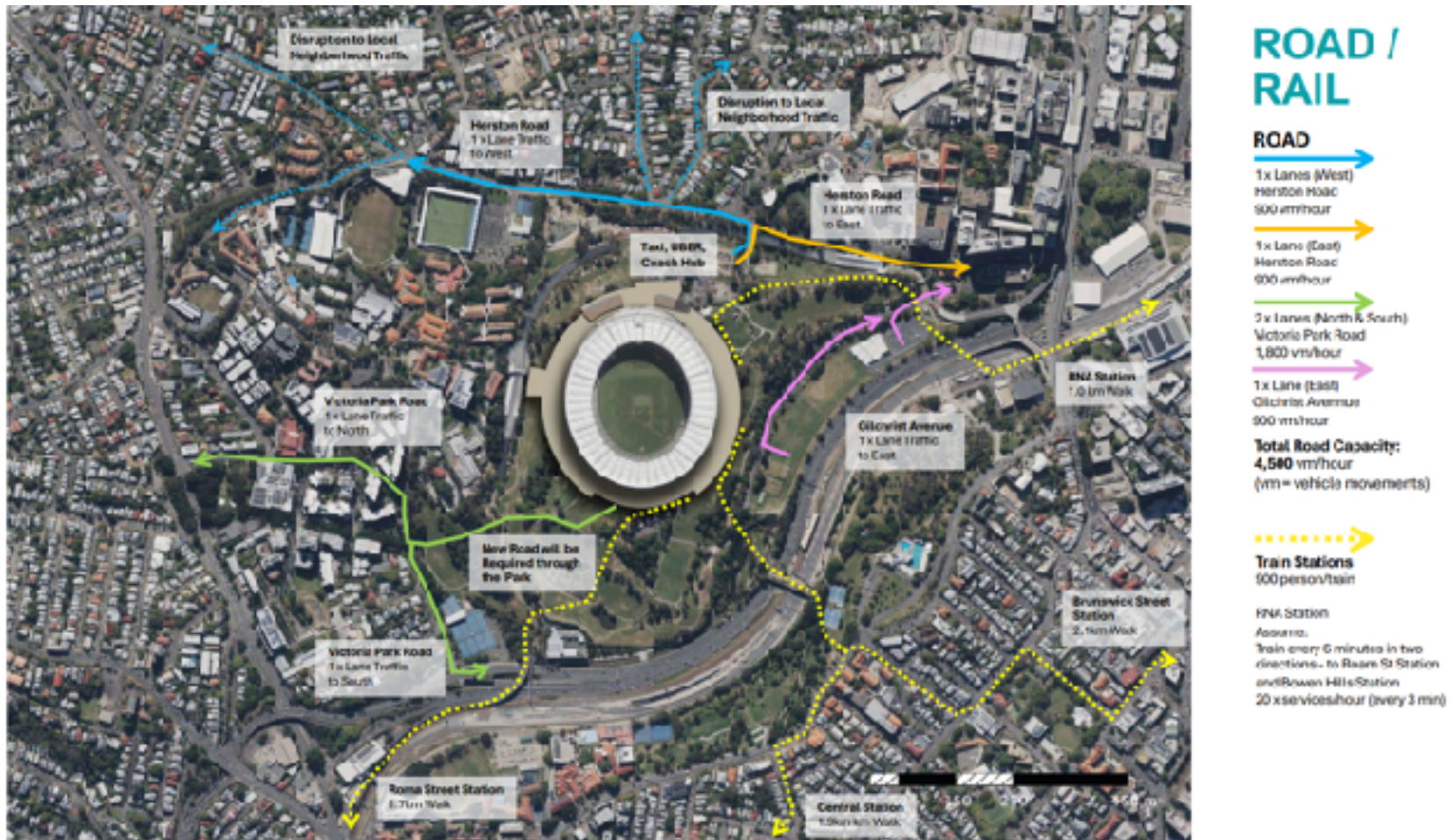
Your Neighbourhood 26/03/2025

👁 18361



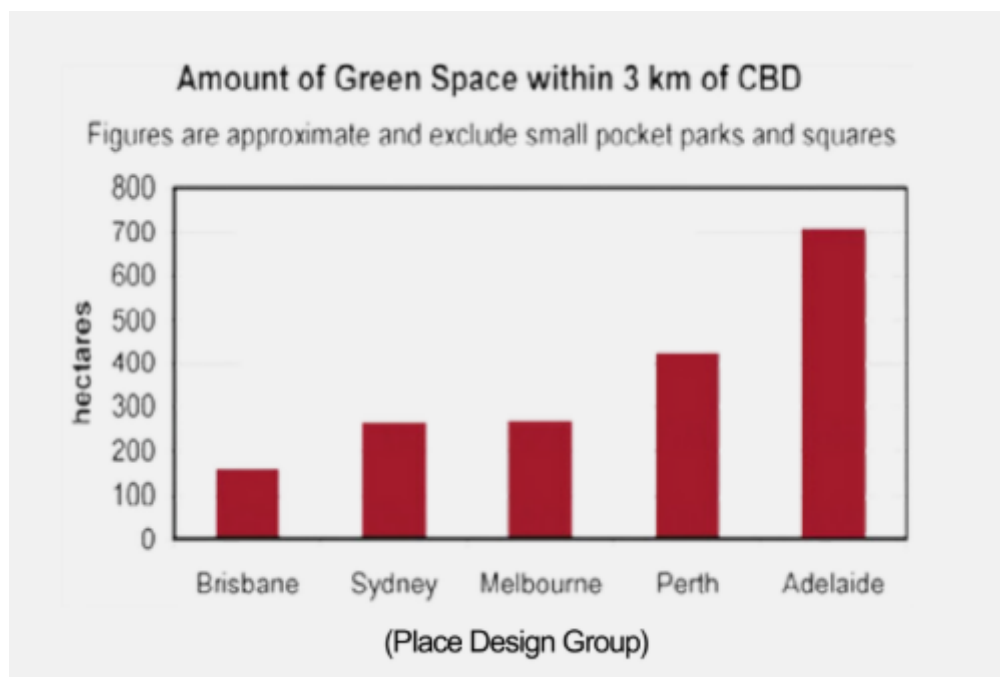
APPENDIX C – OLYMPIC STADIUM IMPACTS ON VICTORIA PARK

Image 1: More accurate render of footprint of a 60k stadium on Victoria Park. Excluding warm-up track, associated infrastructure and 25k capacity National Aquatic Centre.

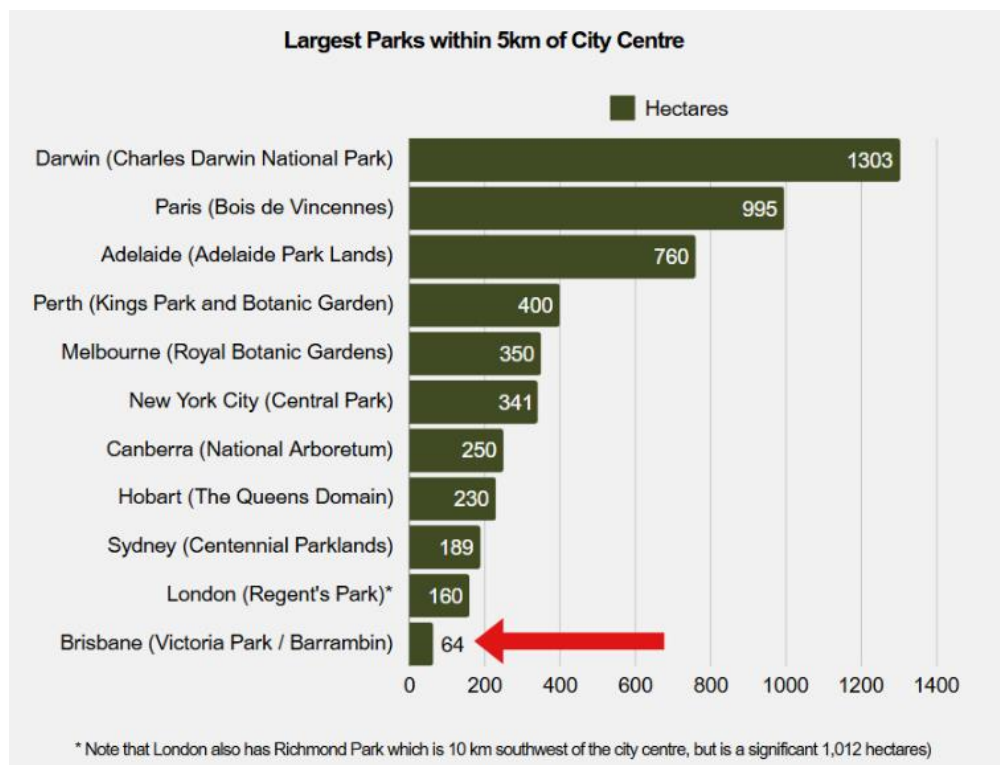


APPENDIX D – BRISBANE'S INNER-CITY GREENSPACE

Graph 1: Amount of green space within 3kms of the CBD.



Graph 1: Largest Parks within 5kms of the City Centre



APPENDIX D – BRISBANE'S INNER-CITY GREENSPACE

Image 1: To scale substantive green space per world city versus Brisbane.

