



Back to drawing board for *Local
Government Electoral (Implementing Stage 1
of Belcarra) and Other Legislation Amendment
Bill 2018*

**Graham Young
Executive Director
May 14, 2018**

Executive Summary

The Chairman of the Crime and Misconduct Commission has warned the state government that its legislation to ban property industry donations could be successfully challenged in the High Court if they do not conduct public consultation on it.

This brief report, based on polling conducted for the Australian Institute for Progress by Reachtel, is a first step, at private expense, to do the consultation that the state government should have.

It indicates that if the government wishes to change donation laws to mitigate against the risk of corruption they need a specific, inclusive and exhaustive approach.

The answers to the questions also suggest the public thinks the government's solution is incomplete, unjust, and excludes good people and organisations from full participation in the political process while leaving bad people and organisations free to improperly influence elected officials.

Rather than curing a deficiency in our democracy caused by a perception of corruption, it potentially increases perceptions of corruption, injustice and favouritism.

Conclusions which can be drawn from the polling are:

1. If the government believes that a public perception that donations from an industry sector could be tainted is a proper basis for banning donations from that industry, then any anti-corruption legislation should include other industries. The public perceives that some donations from Gambling (76%), Property (73%), Unions (63%), Alcohol (60%) and Law Firms (51%) are corrupt. It is likely similar perceptions arise for industries we did not test.
2. The public overwhelmingly (60.5% in favour, 14.7% against) believes that it would be better for wrongdoers to be identified and charged, rather than banning entire members of an industry from donating. This indicates dissatisfaction with the government's approach, and possibly with the enforcement provided by the CCC and the police force.
3. Any donations legislation should include an objective test which would outlaw donations from organisations like the CFMEU who commit significant illegal acts. A massive 87.8% of respondents supported this proposition compared to only 2.7% who opposed it.

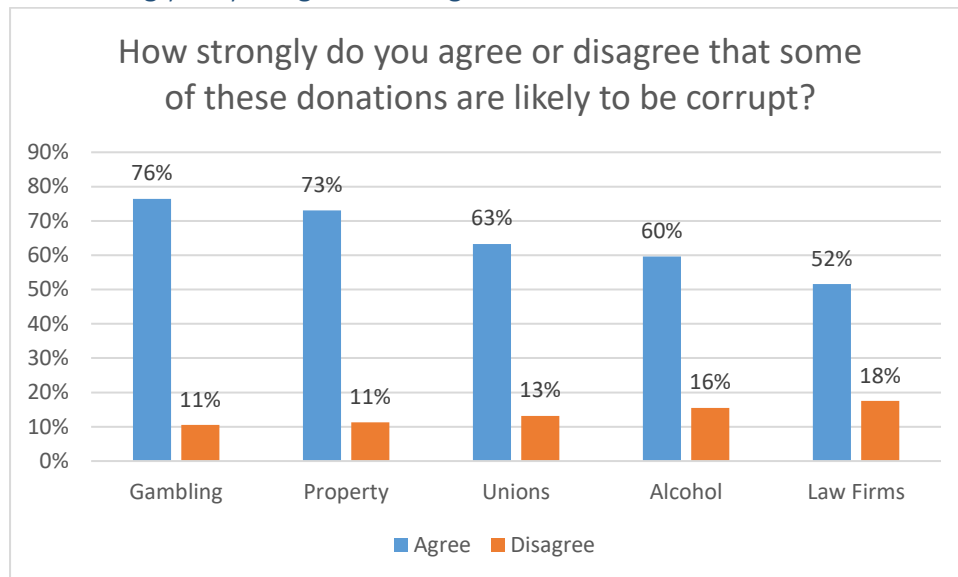
We would add to those points that the public quite clearly has a clearer sense of what is just and unjust, and what is democratic, than the government or the CCC. They prefer penalising individuals to groups which is a fundamental tenet of the common law.

The "Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018" is the result of a flawed process and was opportunistically introduced in the run-up to the last election. It is retrospective legislation that prevented members of the property industry from supporting candidates of their choice, while giving members of other industries free rein.

In the light of this survey we call on the government to withdraw the legislation. If there is a need to reform donation laws, then a proper process of inquiry has to occur, conducted by an independent person, rather than the CCC, who is conflicted, given that their role involves policing corruption in the state.

GRAHAM YOUNG
EXECUTIVE DIRECTOR

Q1. The Queensland government plans to ban political donations from people involved in property development because they say there is a public perception that some of these donations are corrupt. Here is a list of industries that make significant political donations. How strongly do you agree or disagree that some of these donations are likely to be corrupt?



Source: Reachtel Poll of 1,053 Queenslanders conducted on May 10, 2018

The CCC suggested banning donations from property developers because of public perceptions:

There are perceptions of compromised council processes and decision-making, especially where councillors have received campaign funding from donors involved in the property and construction industries. These perceptions are compounded by the failure of many councillors to adequately deal with their conflicts of interest.¹

What our poll reveals is that the CCC was not thorough in its investigations. If it had been it would have found that donations from donors involved in other industries are also perceived to compromise decision-making.

A proper research process would have revealed that.

Instead, the CCC appears to have relied for its assessment of perception on the submissions made to its inquiry. As Commissioner MacSporran told the Economics and Governance Sub-Committee at its hearings on the bill:

Fundamentally the answer to that question is this: if there is a perception of corruption, whether it translates to a reality or not, and we would argue that on many occasions it does translate to reality, but even if it does not, if there is an ongoing perception, which these inquiries have clearly evidenced, that fundamentally undermines public confidence in the system. Even if people are misinformed, wrong-headed, if they honestly believe, and I can assure you that most people who Public Hearing—Inquiry into the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018

¹ "Operation Belcarra: A blue print for integrity and addressing corruption risk in local government" xii

Brisbane - 27 - 28 Mar 2018 make complaints about this sector are not ratbag, mischievous, vexatious complainants, they are honest people who feel as though they need to do something to clean up the area. On occasions they are found to be misinformed, their complaints are baseless, but they are not mischievous, most of them. That just illustrates that there needs to be some better, more transparent system that serves their interest because public confidence in this sector is fundamental to democratic government. That is the fundamental answer to your question.²

This is an extraordinary statement by the commissioner. Unless the commission has information that is not publicly available, to date no property developer has been charged with corrupting an elected official in Queensland since George Herscu in 1990. Operation Belcarra itself did not uncover any wrong-doing by a property developer.

So what is the basis for saying “On occasions they are found to be misinformed, their complaints are baseless, but they are not mischievous, most of them”? On which occasions have they not been baseless? What has the commission done about these occasions, and when will this become publicly available? The commissioner might also like to answer the question “What is the CCC’s test for ‘mischievousness’?”

In the absence of charges, or any systematic sampling of public opinion, it would appear that the commission rests its entire case for public perception on the witness of these people. Yet they have an agenda as revealed in the comments of Ms Elizabeth Handley, President, Brisbane Residents United, who told the parliamentary sub-committee³ she wants all donations banned. So the untested and unproven claims of the opponents of political donations become the evidentiary basis for the commission’s assertion the community wants political donations banned. This contravenes logic, and the principles of justice.

It is shocking that the CCC would make these assertions, relying only on the evidence of interested parties, and without making any effort to do proper statistically valid research before recommending over-turning the current democratic system of donations.

It also raises questions as to the effectiveness of the CCC that it can claim that corruption is occurring in an industry sector, but in 28 years has obtained no convictions.

Table 1: Total donations 2016/2017 by industry

Industry	ALP	Grns	LNP	PHON	Uknown	Total
Gaming	\$ 156,264.45		\$ 129,777.50	\$ 3,980.00		\$ 290,021.95
Property	\$ 401,240.00	\$ 10,000.00	\$ 1,826,841.06		\$ 4,235.00	\$ 2,242,316.06
Union	\$ 1,535,901.88	\$ 5,000.00	\$ 1,196.10			\$ 1,542,097.98

² (“Public Hearing—Inquiry into the Local Government Electoral (Implementing Stage 1 of Belcarra) And Other Legislation Amendment Bill 2018” Transcript of Proceedings p27)

<https://www.parliament.qld.gov.au/documents/committees/EGC/2018/LGElectoralStq1ofBel2018/trans-ph-28Mar2018.pdf>

³ *Ibid* p2

Hospitality	\$ 22,758.10		\$ 132,648.60			\$ 155,406.70
Legal	\$ 142,510.91		\$ 53,809.50			\$ 196,320.41

Source: Electoral Commission Queensland Electronic Disclosure System⁴

We were unable to test the full range of industries because of the nature of automatic telephone based surveys which limit the number of questions it is practical to ask. The table above gives a picture of the size of the donations as well as where they are directed.

While one might argue that gaming, hospitality (the closest category to “alcohol” that we had) and legal are not large enough to worry about, the same cannot be said about union donations.

The CCC Commissioner argued that there was no evidence of trade unions improperly influencing the process:

*The unions have been forever, as you know, public supporters of the Labor Party openly. Their funds are routinely disclosed. We found, **as part of our investigation**, no evidence that they were improperly influencing the process. What they did was transparent, part of the democratic process and not potentially corrupt in the sense that we are talking about, as opposed to the perception that is routinely recognised from developers in that same sector over a long period of time. [Emphasis added]*⁵

The thing that stands out in this paragraph is that he limits proof of union corruption to **this** particular investigation. But this particular investigation found no proof of corruption by developers either, so this is not a basis for distinguishing between the two. What the commission relied on, again as evident in this paragraph, is a claim that there is a “perception” that developers corrupt the process. So he has substituted a different standard of proof for developer donations than for union donations. Surely this is not accidental.

As our poll demonstrates the public does perceive unions as corrupting the process. Some of this perception may derive from information other than the Belcarra inquiry, such as the Trade Union Royal Commission⁶, or news reports such as this from *Courier Mail* entitled “Unions hoping to cash in on poll pledges”⁷

⁴ <https://disclosures.ecq.qld.gov.au/>

⁵ Ibid p28

⁶ <https://www.tradeunionroyalcommission.gov.au/Pages/default.aspx>

⁷ The *Courier Mail*, April 20, 2015. <http://www.couriermail.com.au/news/queensland/unions-hoping-to-cash-in-on-poll-pledges/news-story/aef56ad20b926c6c7037f9d3aecb7c35?sv=c911565742b58be3f6bd5e12ea6f8b90>

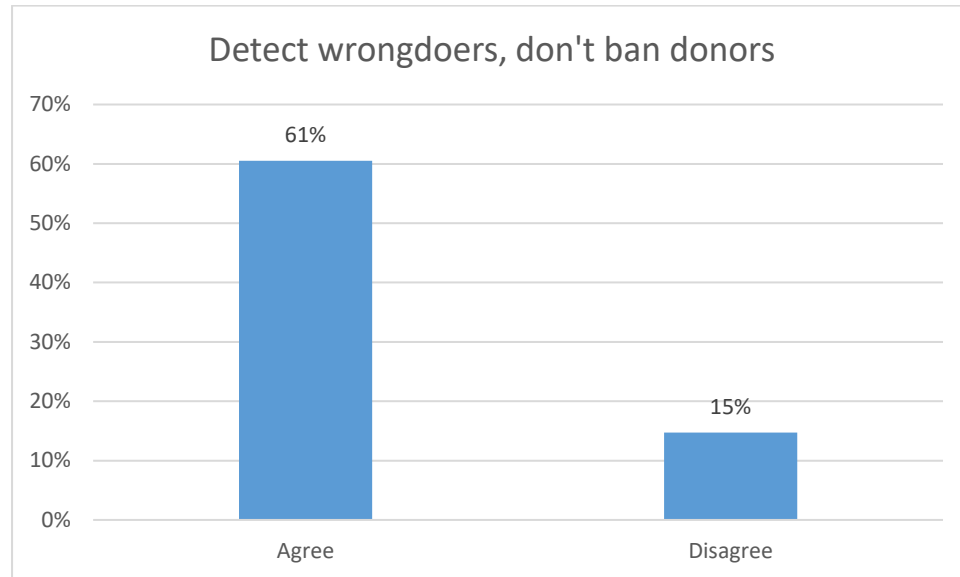
UNION bosses are warning Anastacia Palaszczuk to honour commitments Labor made to them, issuing blatant reminders of how they helped the party secure an unlikely win on January 31.

One high-profile figure boasts about how his union “supported” seven successful Labor candidates and the fact that two of them now sit in Cabinet with the Premier.

Gary Bullock, who heads left-wing union United Voice, even went so far as to refer to the members and ministers as “United Voice MPs”.

The commission has unfairly used different standards to judge different donors. In doing so it could easily give rise to a “perception” that it is playing favourites, as demonstrated by the table above where donations from unions favour the ALP, and donations from developers favour the LNP.

Q2. How strongly would you agree or disagree that it would be better to catch and convict those who bribe politicians rather than banning all members of an industry - even those people who have never done anything wrong - from donating?



Source: Reachtel Poll of 1,053 Queenslanders conducted on May 10, 2018

Clearly the majority of voters agrees that the best way of dealing with corruption is effective policing, and is not prepared to go along with blanket bans on whole industries.

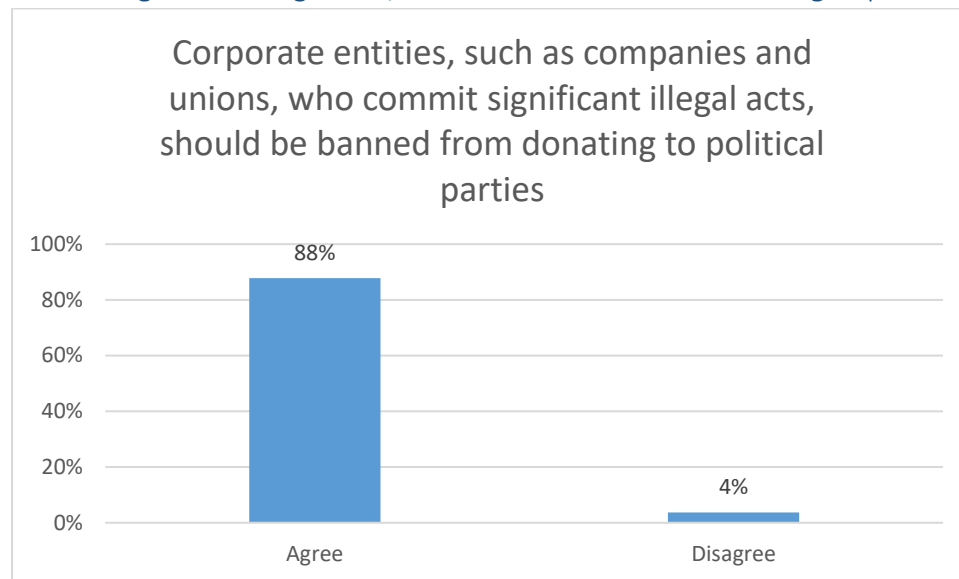
Not only is there a clear majority, but only 15% of voters actually disagrees.

This represents a common sense point of view, and is in line with what most would regard as principles of justice. We don't punish groups for individual crimes, only the individual criminal. We would be aghast if members of a whole community were punished because of the misdeeds of one or two people who live there.

Even in times of war, extreme care is taken by the armed forces to try to kill only those members of a community who are enemy combatants, and we treat as war crimes the killing of populations. At the level of a culture, or a racial group, targeting a group rather than individuals is called genocide.

Indeed, it is surprising that while the Law Society raised the issue of the retrospective nature of the legislation, it did not raise this even more fundamental aspect of the law – that it should apply equally to every person, not unequally, and only to some.

Q3. Do you agree or disagree that any corporate entities, such as companies and unions, who commit significant illegal acts, should be banned from donating to political parties?



Source: Reachtel Poll of 1,053 Queenslanders conducted on May 10, 2018

The third issue that we tested was the question of whether organisations who regularly broke the law should be allowed to donate to political parties. We specifically had in mind the CFMEU which has incurred court fines of over \$14.9 million in recent years and has been described by a Federal Court judge as the “most recidivist corporate offender in Australian history”. It was also found by the Trade Union Royal Commission to have committed a wide range of abuses.

Support for banning donations from lawless organisations was extremely high. You rarely get populations being this much in favour of a proposition. Of even more significance is that only 4% disagree – this is only just greater than the statistical margin of error for this sample size.

Quite clearly the answer to whether the CFMEU should be allowed to donate is “No”. We are not aware of any other donors that might fall into this category, but there may be some. This is an area that needs to be scoped more thoroughly, but it appears obvious from the answer to this question that some sort of “fit and proper” person test should be applied to corporations, and perhaps even individuals, who donate to political parties and candidates.

Research and public consultation would be needed to define this criteria, particularly what constitutes “significant illegal acts”.

It should be noted that under the government’s proposed legislation, someone with a criminal conviction of less than 3 years would be able to donate to a political party, but a property developer with not even a traffic fine against his or her name, would not.

11th May 18

FINAL RESULTS

ReachTEL conducted a survey of 1,053 residents across Queensland. The survey was conducted during the night of 10th May 18

Question 1:

The Queensland government plans to ban political donations from people involved in property development because they say there is a public perception that some of these donations are corrupt. Here is a list of industries that make significant political donations. How strongly do you agree or disagree that some of these donations are likely to be corrupt:

Property Developers?

	Total	Female	Male	18-34	35-50	51-65	65+
Strongly agree	56.8%	56.2%	57.4%	52.0%	59.9%	60.9%	53.3%
Agree	16.3%	17.4%	15.3%	18.1%	15.8%	16.9%	13.6%
Neither agree nor disagree	12.3%	14.0%	10.6%	10.6%	12.0%	12.1%	17.2%
Disagree	4.6%	2.8%	6.4%	4.4%	4.7%	3.6%	5.9%
Strongly disagree	6.7%	5.4%	8.1%	11.8%	4.4%	4.0%	5.3%
Unsure	3.2%	4.3%	2.1%	3.1%	3.2%	2.4%	4.7%



Question 2:

The Queensland government plans to ban political donations from people involved in property development because they say there is a public perception that some of these donations are corrupt. Here is a list of industries that make significant political donations. How strongly do you agree or disagree that some of these donations are likely to be corrupt:

Law Firms?

	Total	Female	Male	18-34	35-50	51-65	65+
Strongly agree	30.1%	30.0%	30.2%	30.2%	33.5%	27.8%	26.9%
Agree	21.5%	21.8%	21.1%	19.3%	24.4%	22.2%	19.3%
Neither agree nor disagree	27.0%	29.5%	24.4%	25.5%	20.3%	31.9%	34.5%
Disagree	10.9%	9.3%	12.6%	11.2%	13.9%	8.9%	7.6%
Strongly disagree	6.6%	4.5%	8.7%	10.0%	5.1%	5.2%	5.3%
Unsure	3.9%	4.9%	2.9%	3.7%	2.8%	4.0%	6.4%



Question 3:

The Queensland government plans to ban political donations from people involved in property development because they say there is a public perception that some of these donations are corrupt. Here is a list of industries that make significant political donations. How strongly do you agree or disagree that some of these donations are likely to be corrupt:

Gambling Industry?

	<i>Total</i>	<i>Female</i>	<i>Male</i>	<i>18-34</i>	<i>35-50</i>	<i>51-65</i>	<i>65+</i>
<i>Strongly agree</i>	61.2%	58.1%	64.3%	57.6%	58.9%	65.9%	64.7%
<i>Agree</i>	15.2%	17.3%	13.0%	10.6%	17.4%	18.3%	15.9%
<i>Neither agree nor disagree</i>	10.8%	11.9%	9.7%	10.0%	12.7%	9.8%	10.6%
<i>Disagree</i>	5.3%	5.0%	5.6%	9.3%	4.4%	2.0%	3.5%
<i>Strongly disagree</i>	5.2%	3.7%	6.8%	8.7%	5.1%	2.8%	2.9%
<i>Unsure</i>	2.3%	3.9%	0.6%	3.7%	1.6%	1.2%	2.4%



Question 4:

The Queensland government plans to ban political donations from people involved in property development because they say there is a public perception that some of these donations are corrupt. Here is a list of industries that make significant political donations. How strongly do you agree or disagree that some of these donations are likely to be corrupt:

Alcohol Industry?

	<i>Total</i>	<i>Female</i>	<i>Male</i>	<i>18-34</i>	<i>35-50</i>	<i>51-65</i>	<i>65+</i>
<i>Strongly agree</i>	38.0%	37.1%	39.0%	37.7%	34.7%	42.7%	37.1%
<i>Agree</i>	21.6%	20.7%	22.5%	18.1%	23.3%	22.4%	23.5%
<i>Neither agree nor disagree</i>	22.6%	24.6%	20.5%	16.2%	24.9%	24.8%	26.5%
<i>Disagree</i>	8.3%	6.5%	10.1%	11.8%	8.5%	5.3%	5.9%
<i>Strongly disagree</i>	7.2%	7.6%	6.8%	14.3%	5.4%	3.3%	3.5%
<i>Unsure</i>	2.4%	3.5%	1.2%	1.9%	3.2%	1.6%	3.5%



Question 5:

The Queensland government plans to ban political donations from people involved in property development because they say there is a public perception that some of these donations are corrupt. Here is a list of industries that make significant political donations. How strongly do you agree or disagree that some of these donations are likely to be corrupt:

Trade Unions?

	<i>Total</i>	<i>Female</i>	<i>Male</i>	<i>18-34</i>	<i>35-50</i>	<i>51-65</i>	<i>65+</i>
<i>Strongly agree</i>	50.1%	47.1%	53.2%	45.2%	50.3%	50.6%	58.2%
<i>Agree</i>	13.2%	13.6%	12.8%	11.8%	12.3%	16.2%	12.9%
<i>Neither agree nor disagree</i>	21.2%	23.5%	18.8%	26.2%	23.4%	16.6%	14.1%
<i>Disagree</i>	8.3%	8.6%	8.1%	10.0%	6.3%	10.1%	6.5%
<i>Strongly disagree</i>	4.9%	3.9%	6.0%	3.1%	7.0%	4.9%	5.3%
<i>Unsure</i>	2.3%	3.4%	1.2%	3.7%	0.6%	1.6%	2.9%



Question 6:

How strongly would you agree or disagree that it would be better to catch and convict those who bribe politicians rather than banning all members of an industry - even those people who have never done anything wrong - from donating?

	Total	Female	Male	18-34	35-50	51-65	65+
<i>Strongly agree</i>	38.0%	40.9%	35.1%	31.5%	36.4%	45.7%	41.7%
<i>Agree</i>	22.5%	21.3%	23.8%	21.8%	24.1%	21.5%	22.6%
<i>Neither agree nor disagree</i>	22.2%	19.6%	25.0%	27.4%	21.2%	17.4%	21.4%
<i>Disagree</i>	6.6%	6.7%	6.4%	7.5%	7.3%	6.1%	4.2%
<i>Strongly disagree</i>	8.1%	8.2%	7.9%	10.0%	10.4%	5.7%	4.2%
<i>Unsure</i>	2.6%	3.4%	1.7%	1.9%	0.6%	3.6%	6.0%



Question 7:

Do you agree or disagree that any corporate entities, such as companies and unions, who commit significant illegal acts, should be banned from donating to political parties?

	<i>Total</i>	<i>Female</i>	<i>Male</i>	<i>18-34</i>	<i>35-50</i>	<i>51-65</i>	<i>65+</i>
<i>Strongly agree</i>	71.9%	68.9%	75.0%	70.7%	67.6%	77.4%	72.4%
<i>Agree</i>	15.9%	17.5%	14.1%	20.6%	14.2%	12.1%	15.3%
<i>Neither agree nor disagree</i>	7.4%	9.1%	5.6%	6.2%	11.3%	5.6%	5.3%
<i>Disagree</i>	1.8%	1.5%	2.1%	1.2%	3.1%	0.8%	2.4%
<i>Strongly disagree</i>	1.9%	1.5%	2.3%	1.2%	3.1%	1.6%	1.8%
<i>Unsure</i>	1.1%	1.5%	0.8%	0.0%	0.6%	2.4%	2.9%

This survey was conducted using an automated telephone based survey system among 1,053 voters. The data has been weighted to reflect the population age and gender distribution as provided by the ABS. Telephone numbers and the person within the household were selected at random. Copyright ReachTEL Pty Ltd



