

Submission to Operation Belcarra Inquiry

Dr Cameron K. Murray
Tuesday, 4 April 2017

Thank you for the opportunity to make a submission to this inquiry. I have responded to the main stakeholder questions of which I have expertise below.

Election funding General

What are the pros and cons of a local government election funding model that involves only private funding?

Certainly the lack of public funding for candidates encourages 'investment' in candidates by donors and allies who can benefit from their future political career. There is certainly scope for a small amount of public funding once a minimum private contribution is reached to allow independent candidates without deep pockets to run on the basis of a small network of genuine supporters.

Do any types of donations or election funding mechanisms present high corruption risks, or significantly undermine transparency, integrity and public confidence? We are particularly interested in your views about donations from companies (as opposed to individuals), trusts set-up to collect campaign funds, and donors involved in the property and construction industries. Do these pose risks? How might these risks be best mitigated?

Donations from trusts should be banned. In fact, trust structures themselves are of questionable economic merit in general.

Donations from companies should be banned, and only individual donations allowed. This is not because individuals will not have vested financial interests. But because individuals are much easier to track, and will need to put their own private reputations on the line should they begin to skirt near the edge of the donations laws.

Conflicts of interest

Can donations lead to real or perceived conflicts of interests for councillors? In what ways?

Yes. Donations are clearly used to generate loyalty between the donor and the candidate. But importantly, donations may not be the main game when it comes to generating political loyalty and influence.

Non-cash favours can be given in a wide variety of ways to candidates, and in many cases, the payment for favours done by councillors when in office come AFTER they have been in office, through cushy appointments in company boards, and other non-cash ways to provide payments for favours granted.

Donations may be a helpful place to start looking for conflicts, but they are by no means the end.

How are conflicts of interest best mitigated? We are particularly interested in your views about legislative approaches (e.g. prohibiting donors from bringing business before a council where they have donated to one or more of its councillors) and informal approaches (e.g. councillors choosing not to vote on matters that affect their donors). Is it sufficient for councillors to decide if they have a conflict of interest?

The best way to reduce conflicts for councillor is to reduce the value of council decisions to private parties by pricing them. One of the main areas where local councils give away decisions worth millions is with land rezoning. Instead of giving away new property rights to certain landowners through rezoning, these additional development rights can be sold by councils.

In the ACT the value gains from rezoning are taxed at 75%, which is paid then the landowner applies to use the land for the newly-allowed higher value uses. In Sau Paulo, Brazil, additional development rights are sold to landowners at monthly auctions, a system which has raised over \$USD 1 billion in the past 10 years.

The Queensland State Government could force councils to adopt a similar system, which would have the additional benefit of efficiently raising revenues. For example, in 2014-15 the ACT raised \$183 million from such taxes. I have previously estimated that Queensland (or its councils) could raise \$1.7 billion per year from adopting the same system as the ACT. Instead, this economic value is able to be given by councillors to their mates through rezoning and planning decisions. It is the massive value of these decisions that is driving the corruption concerns in this inquiry.

Evidence of how the rezoning game is played comes from a 2015 study I conducted on whether rezoning boundaries can be determined by the characterises of land near the boundary, or characteristics of the landowner. It turned out that the best way to predict who got favourably rezoned was to see how well-connected they were in a corporate and political relationship network. The reason the relationship network is important is to sustain the trust necessary for some favours will be repaid in the future, rather than in advance through donations. The characteristics of the land had nothing to do with rezoning decisions.

Indeed, I also found that political donations were not good predictors of who was rezoned. In fact, hiring professional lobbyists was far more effective (they had a 100% hit rate in my land rezoning sample of 12,000 properties).

In just this sample of rezoning decision, there was \$410 million in land value was given away to politically-connected landowners.

You can read more about this process at the end of this submission where I have attached a number of blog posts documenting my research, and a new case study exhibiting these core features. The point being, that the corruption concerns surrounding the involvement of developers in council elections will never be resolved while there are multibillion gifts able to be given away by councillors.

Bans on donations

What are the pros and cons of a complete ban on donations?

In practice a complete ban simply means that campaigns will be funded in alternative ways, that may be more opaque than what can be achieved with modern donation transparency regulations.

Should there be more limited bans on donations, focused on specific areas of risk? If so, which donors or types of donations should be banned at local government level and why? What is the best mechanism to ban high-risk donors from contributing to local government candidates?

Donation caps

Should donations to local government candidates be capped/limited to a certain amount?

What are the arguments for and against this?

- *If a donations cap was to be implemented, what should this look like?*
- *What donations should be subject to a cap?*

- *Should a donations cap apply to third parties as well as candidates? Should it also apply to donations received by councillors during their term in office?*
- *What would be an appropriate level for a cap?*
- *Should there be different donation caps for different types of candidates (for example, lower caps for incumbent candidates)?*
- *What measures should be put in place to prevent caps being circumvented?*

In the same way a donations ban will be skirted by offering valuable services and favours in other ways (and also after a councillor's time in office), donation caps will be easily avoided. Much of the focus on these administrative mechanisms is missing the main point that the whole motivations to donate, or to influence councillors is because they can make decisions of great private value. Once the private value of the decisions by councillors is massively reduced, there will be little interest in influencing the democratic process.

Donation disclosure

What are the elements of a best practice disclosure system?

Real time donations disclosure would be ideal. But the main problem is being able to properly identify the entities donations. Trusts and companies should be banned from donating so it is clear who is behind the money. Identifying political donors and their interests goes hand-in-hand with an accessible and easily searchable corporate registry and land titles registry. This too needs to be considered, and I would expect that any outcome from this inquiry makes recommendations to the Land Titles office about improving public accessibility of land titles data, and to ASIC, to promote better public access to corporate information.

Despite the intention of banning donations from corporates and trusts, a simple way around this is for interest parties to donate under the names of their children or spouse.

Public funding for elections

If a system of public funding for local government elections was to be introduced, what should this look like?

- *How much public funding should there be?*
- *Who should public funding be given to?*
- *How should funding entitlements be calculated?*
- *How should recipients be held accountable for their use of public money?*

The basic structure should involved

- a. A minimum demonstration of private funding, say \$10,000.
- b. The same entitlements for all candidates (otherwise, the system just backs previous winners if it gives in proportion to electoral success or private fundraising)
- c. A prescribed list of acceptable activities to use the funding must accompany it, such as printing of election materials. This list will need careful thought. There is no right answer.

Expenditure caps

Should candidates' expenditure on local government elections be capped/limited to a certain amount? What are the arguments for and against this?

If an expenditure cap was to be implemented, what should this look like?

- *How should expenditure be defined?*
- *Should an expenditure cap apply to third parties as well as candidates?*
- *What would be an appropriate level for a cap?*
- *Should there be different expenditure caps for different types of candidates (for example, lower caps for incumbent candidates)?*

- *What measures should be put in place to prevent caps being circumvented?*

It is not clear how an expenditure cap can be enforced at all, or what the purpose of it is. The main function of political donations is not to get your candidate elected, but to signal loyalty to them so they know that any favours they do while in office will be repaid in future.

We know this because 60% of the political donations in Australia come from donors who donate to both sides of political equally. Anyone truly interest in using donations to get favours would simply donate to all parties.

Expenditure disclosure

What are the pros and cons of requiring local government candidates to disclose their electoral expenditure?

If expenditure disclosure requirements were to be introduced, what should these look like?

- *How should expenditure be defined?*
- *What would be an appropriate disclosure threshold?*
- *How should the regulator seek to ensure the accuracy of expenditure disclosures?*
- *Should any changes be made to the current expenditure disclosure requirements for third parties?*

It is not perfectly clear what the purpose of such disclosures would be. What would happen if a candidate used their donor's money on strippers and booze? I see no reason for them not to.

It is also to clear if there is a system that could ensure that disclosures are made with sufficient detail to be of any use. For example, the current system for political disclosures at the State level is a waste of time. Handwritten documents with illegible declarations of interests that are impossible to narrow down to something meaningful.

The remainder of this document consists of additional reference material on donations, lobbying and rezoning in Queensland, primarily from blog post highlighting my previous research on the topic.

How to get your land rezoned: A QLD story

Blog post from January 2016

<http://www.fresheconomicthinking.com/2016/01/how-to-get-your-land-rezoned-qld-story.html>

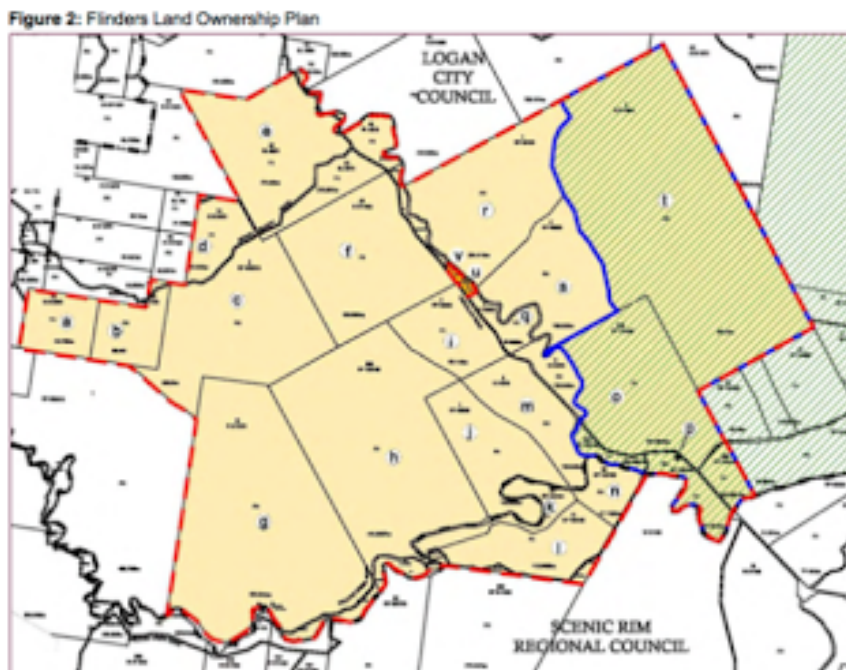
My [previous research](#) looked at favouritism in land rezoning via the Urban Land Development Authority (ULDA) in Queensland. By looking at the characteristics of landowners inside and outside the boundaries of the rezoned areas I was able to show that that main determinant of getting rezoned is not your land's size, or location, or any other planning consideration, but how well-connected the landowner is in a social network of connected elites in Queensland.

So it is interesting to see one of those landowners who missed out (partly) on the favouritism of the ULDA seeking favours from the Logan City Council using exactly the type of textbook methods of influence I uncovered in my previous research.

The project is called [Flinders](#), and it is situated outside the southern boundary of the Greater Flagstone ULDA area (which after a change of government is called a Priority Development Area). When I came across materials for this development proposal I thought it quite unusual; it's not in a priority area, there are plenty of identical "new town centre" developments planned within a 10km radius, and there seems to be quite a lot of marketing fluff online considering the thing isn't even approved and probably shouldn't be according to existing planning controls.

For someone who has spent four years investigating dodgy planning approvals in this area it was a case that seemed quite interesting.

In the image below, from the documents submitted for planning approval, you can see the priority development area (GFPDA) hashed on the right of the blue line. The land owned by Pacific Holding Pty Ltd (applying for the development approval) is in yellow, and they are seeking to approve a massive new township on this whole area (which is currently agricultural). If you want to look up all the details go to the Logan Planning and Development Enquiries page ([here](#)), and search for application MCUI - 38 / 2015. It applies to Lots 1, 2, 3, 19, 32, 42, 79, 80, 390 and number 194 Mount Elliot Road, Undullah.



The proponents state in their application that they missed out in being fully within Greater Flagstone Priority Development Area (GFPDA), and are arguing that they should be treated in a similar manner in terms of planning outcomes. They say

The subject part of the Flinders development will provide a logical extension to the GFPDA and will be a key landholding contributing to land supply to accommodate forecast growth in the region. Ultimately it is anticipated that the population of Flinders will be in the order of 50,000 people (32,000 of those will reside on the subject site) with 15,000 permanent jobs created in a range of occupations.

Note the ambit claims of future population. Sure, maybe at some point this century there will be 50,000 people there. But not in the next couple of decades. It's also lovely to see claims of how well-connected the site is. I drove through there recently. Trust me. It's not well connected.

In any case there are some more interesting parts of the application which show a textbook effort in gaining political favour, after having missed out on the last round of favours at the ULDA.

Who is this?

Darwin and Michelle King are the children of Philip Cea, a fruit grower [who was embroiled in the citrus canker outbreak in 2005](#), and was claimed to have bypassed quarantine to import fruit trees and vines in 2001. Aside from the fruit business, he has also has built relationships with government, and [was part of a 2013 trade mission](#) to China along with a number of other high profile property industry people, including professional lobbyists (some being former politicians), many land developers, and real estate agents.

The relationship building

I found [this video](#) of the King's hosting a one-day development forum about Cities of the Future, which provides a picture of the next generation's own efforts to build relationships. Invited were various State agencies and local government representatives, planning consultants and property industry organisations. It's quite interesting to see their investment in relationship-building documented this way.

It's almost as if the development cannot be justified through regular planning routes based on its own merit.

Some of the names of consultants employed or appearing in the video include, [Mike Day](#) from RobertsDay planning consultants, [Gavin Johnson and John Harrison](#) from Mortons Urban Solutions. Daniel Parker and Alexander O'Reilly from MacroPlan for the "needs assessment". Stephen Harrison from iLiv group, who is also Vice President of the industry lobby group the Urban Development Institute of Australia (Qld), is the project director for the Flinders development.

I'm not accusing any of these people of doing anything other than what they are employed to do. But hiring the "right" consultants has always been part of relationship-building, something the King's have been undertaking with vigour in order to secure their planning approval. Does anyone really think they would have the same chance of success if they only hired consultants who had never dealt with the local council or State government before?

The cover fire of urgent demand

The "Housing and Non-Residential Needs Assessment" submitted as part of their application is quite something. It asserts that when there are 50,000 people living there, there will be demand for many services and facilities. I'm stunned. But I don't see anything about where the 50,000 number comes from.

They also try to hitch a ride on the back of the neighbouring Priority Development Area again, this time by stating how much their development will “amplify” all the gains. It’s a real magic pudding story devoid of any realism.

But we know this is all nonsense. Another Priority Development Area, Yarrabilba, which is a very similar urban fringe development, has a [30 year timeframe](#) for their build out to 45,000 residents. With both of these substitute developments competing for buyers and new residents, I expect that it will take half a century or more to get close to building what is proposed.

To be more clear, population growth in the whole of Queensland [was 70,540 people in the year to June 2014](#). What share of Queensland population growth will go to this one development each year? Maybe a percent? So at 700 people per year, that's 71years to build out the development.

So why the urgency? What exactly is the pressing need? Is this just cover fire - a distraction for the public and an legitimate-looking excuse for the council to approve what might otherwise be a nonsense application?

The lies?

On page 44 of their application they commit to

Develop an Innovation Precinct in partnership with Massachusetts Institute of Technology (MIT) and CSIRO.

They also reiterate this on their “Housing and Non-Residential Needs Assessment”, stating

Flinders was a core partner (along with CSIRO) in a submission to the Australian Government earlier this year seeking to establish an Industry Innovation Precinct focused on urban development. Its goal was to provide the opportunity to integrate innovation into existing urban development practices that could create an exemplar sustainable community and be replicated nationwide. It is not apparent whether this program will continue under the LNP, however Pacific International Group has secured Massachusetts Institute of Technology (MIT) and Bond University as innovation partners to build on the work done to date. This may also include a tertiary education facility.

They go on to explain the value of having an MIT facility in the area. That would be quite something. My guess is that they are talking up “inviting someone from MIT to a conference” as some kind of commitment to a remote campus. Again, if the demand for this development exists there, why the need to name drop so outrageously?

Trusts and hiding financial interests

It is common to use trusts and other structures to hide what is going on. Flinders is no exception. Here it’s the Pacific International Development Corporation (PIDC) Trust making the application. The land is owned by Flinders Land Holding Pty Ltd.

As it typical in Australia, knowing exactly who owns what land is often quite tricky. After years of being unable to truly enforce our own tax laws, the Australian Tax Office [has now requested](#) from each state 32 years of land ownership records. It remains truly bizarre that land titles and corporate records are not freely available online. Knowing who's who is a business for insiders only.

Weakness of political donations

What I didn’t find is also notable. I didn’t find any records of the Kings, or their various businesses, donating to State politics in the last few years. This is one of the findings I made when studying rezoning in other ULDA areas. Political donations weren’t as useful at gaining favours as being well-connected to insiders.

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If my research has merit, and if the King's continue to build their relationships with property insiders, than I have no doubt they will be granted extremely valuable rezoning gifts soon enough. If only they had been working their relationships this much back in 2005-2008 they might have had their whole property declared inside the Greater Flagstone ULDA (now GFPDA) the first time.

Lobbyists own QLD planning

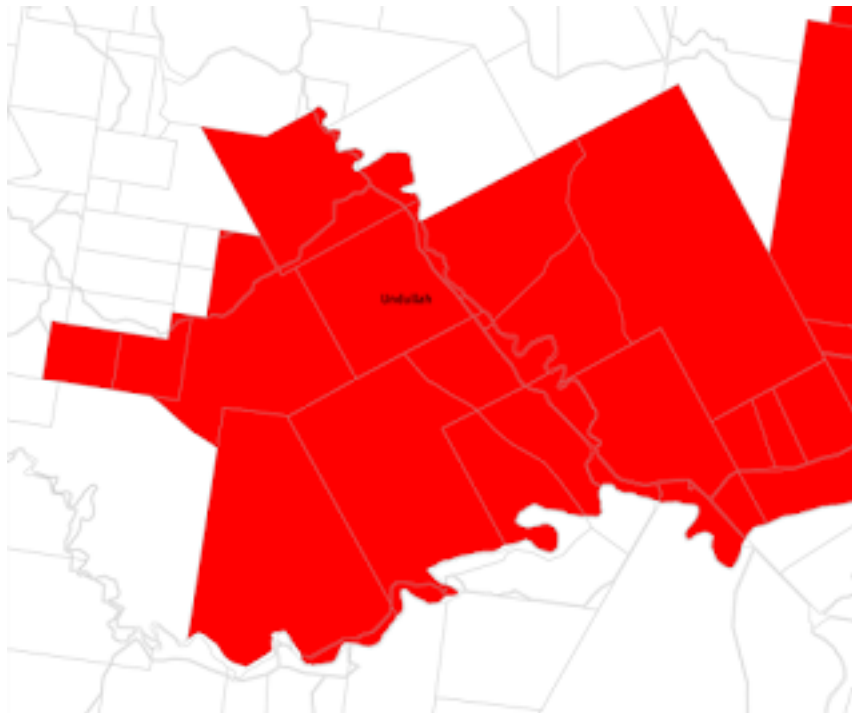
Blog post from October 2016

<http://www.fresheconomicthinking.com/2016/10/lobbyists-own-qld-planning.html>

A draft of the new SEQ regional plan, a document that the State government uses to direct the development plans of local councils, is out this week.

Yeah for Queensland!

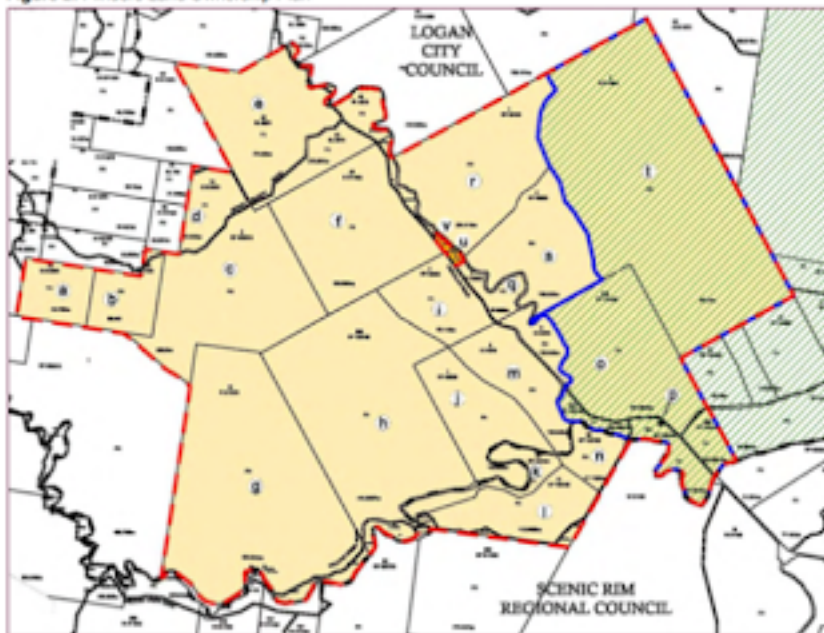
But I noticed something a little strange. It is this mysterious red shading with the word Undullah on it. From Map 24 (find it [here](#)). The red means "Draft Urban Footprint". So no longer are uses on that land limited to rural or agricultural activities. Bring forth the bulldozers, there's a residential subdivision to be made!



What an unusual shape though. I wonder how that decision was made?

Oh. Look what I've found. Here's a map from planning application made to Logan City Council in 2015. In this map the urban footprint is only the blue hatched area, extending west only to the blue line. The yellow marks the land owned by the person making the planning application. This application did not comply with the planning rules when it was made.

Figure 2: Finders Land Ownership Plan



Maybe I'm jumping to conclusions. Maybe there's a legitimate reason to draw a new planning boundary around this one landowners land, giving them a multi-million dollar windfall gain from this planning decision. My guess of the value this planning decision to this landowner is somewhere in the order of \$80-150million. Give or take.

I'm sure if we had an investigative body look into this, there would be no evidence at all of misconduct or improper use of powers by anyone involved.

Or maybe just read the whole back story [here](#) and make up your own mind.

Dodgy rezoning, a summary

Blog post from June 2015

<http://www.fresheconomicthinking.com/2015/06/dodgy-rezoning-summary.html>

If you click the news link above you will see that [my research on land rezoning decisions](#) and the relationship networks of land owners has had a fair bit of coverage.

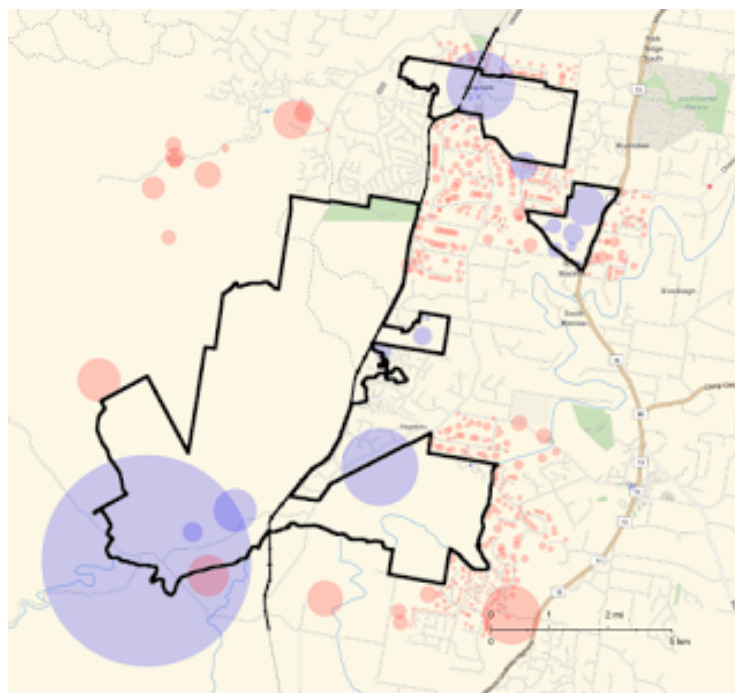
One thing I have learnt is that this type of quite technical research requires some effort to translate into bite-sized pieces for the broad media-consuming audience.

This post will be a reference point for the media and interested people that summarises the key findings and provides a couple of simple graphs and visuals that are not specifically included in the original research paper, but that can communicate the basic findings well.

What I did

I took a sample of landowners inside and outside rezoned areas in 6 locations in Queensland, where the statutory body, the Urban Land Development Authority (ULDA), took planning controls away from councils with the intent of increasing density, land values, and the speed of housing development.

In the example map below the blue disks are the landowners in my sample inside the rezoned area (black outline), sized by their land area, while the red disks are outside landowners in my sample.



The logic of doing this is that these outside landowners could have been rezoned had the boundary of the areas been decided differently. From interviews with former public officials, and many others involved with planning decisions, it came to my attention that there is quite a bit of discretion about boundary decisions in zoning and that well-connected landowners often use their political clout to make sure the boundaries encompass their properties. The odd shapes of these areas are quite suggestive of this type of favouritism, as they have no apparent economic justification.

The sample is filtered to ensure I capture only undeveloped parcels that are at least as large as the minimum size rezoned parcel. There are 1,137 landowners owning 1,192 parcels in the sample.

Land characteristics or owner characteristics?

To see whether the characteristics of landowners likely to reflect political influence were a key determinant of these boundary decisions I collected data from both inside and outside landowners on the following:

- Political donation activity
- Professional lobbying activity
- Membership of property industry lobby groups
- Corporate relationships through cross-directorships and ownership

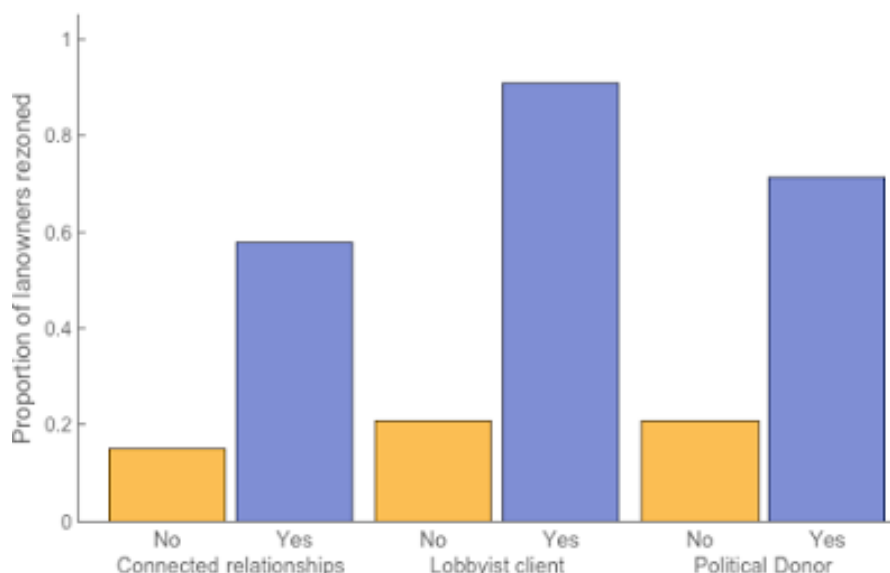
I also created a network of relationships that included the landowners using lobbyist-to-client connections, industry group connections, corporate connections, and

- Connections from ULDA staff to their former employers
- Connections to politicians from their former employers

The network had 13,740 entities and 272,810 edges.

I then model the effect of these characteristic on rezoning success, finding that being connected in the network increased chances of rezoning by around 19%, and getting into the most favourable part of the network gained an additional 25% chances. Employing a lobbyist improves your chances 37%, even after controlling for all other factors. Political donations don't show and significant prediction on land rezoning when controlling for these other factors.

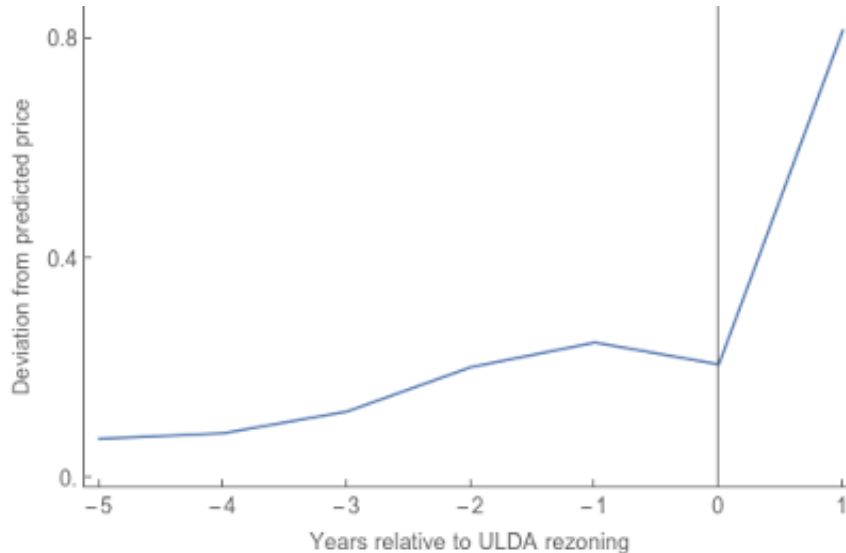
Connected landowners owned 75% of the rezoned area, and only 12% of the land outside.



In the graph above I have the proportion of connected and not-connected landowners that were rezoned, the proportion of landowners who don't employ lobbyists rezoned versus the proportion of those who do, and the same with political donors.

The size of rezoning value gains

Using 822 historical sales of development sites inside and outside the areas in the study I estimate the price deviation attributable to rezoning. Essentially the rezoning increase prices across all areas by 81% relative the the neighbouring sites outside the rezoned areas. The below graph shows the price deviation through time, and the big change that comes the year of rezoning.



In all the value to rezoned land owners was \$710million, of which connected landowners gained \$410million. In terms of the marginal gains to becoming connected in our sample, this was \$190million. While on a per hectare basis the mean gains are just \$56,000, which isn't much, the sheer scale of the the gains to a narrow group of people represent a problematic political transfer from the unconnected to the connected. It also suggests that many billions in value are regularly transferred to connected landowners through routine rezoning decisions.

What to do

There are two main ways to stop this political favouritism - disrupt the favour exchange, and remove the honeypot.

Disrupting the favour exchange means requiring cooling-off periods for former politicians and bureaucrats, but also a policy of electing independent people to boards and decision-making positions. Why does the ULDA need to have its board stacked with local developers? Why not have a planning expert from Europe? There is a myth that local expertise is somehow required in the regulatory positions, but most of the time you don't get expertise, just loyalty to mates.

Greater transparency from all our public registers would also go a long way. Why aren't land titles a freely available database? Why isn't ASIC register of companies available for free? Why can trusts conceal who owns what so easily?

In terms of removing the honeypot, or reducing the value of discretionary political decisions, the obvious point here is to enact a process of selling additional development rights rather than giving them to selected landowners for free. This requires a pretty radical change in the way planning is viewed, but it makes perfect sense. Planning rules, including zoning, are part of the definition of property rights. You wouldn't give away a land area for free, so why give away land right of a different kind for free?

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Alternatives to selling development rights are betterment taxes, and land taxes, both of which are effective administrative alternatives.

We can also think outside the box and look at development timing fees. If the rezoning is intended to increase density and increase housing supply, why not provide incentives to build sooner rather than delay? A per-dwelling fee that increases every year in the rezoned area would encourage developers to bring forward construction and sales.

Lastly, we can have local referenda on town planning changes to allow for representation of the interests of the politically unconnected.