

## LAND READJUSTMENT: TOOLS FOR URBAN REGENERATION

workshop, Gwangon Republic of Korea, 12-16 Dec 2016

dr Barrie Needham

Land readjustment

**Land readjustment as way of assembling separate land ownerships in order to be able to (re)develop land in an integrated way**

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## 1. Ways of assembling land

- privately, a private developer acquires amicably;
- publicly, by a public agency, amicably and/or by expropriation;
  - : for a specific project, for land banking, for public land leasing;
- public-private partnership: private developer(s) and public agency working together;
  - : public agency uses powers which a private developer does not have;
- land readjustment: (semi-)voluntary co-operation between the existing land owners.

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## 2. Land readjustment in outline

If the total plan area were to be (re)developed in an integrated way, so that it has a value higher than if the separate landowners were to act without mutual co-operation;

- i.e. the value of the land ownerships *before* is less than the value of the land ownerships *after*, minus the land preparation costs;

: value before = land and any building works;

: value after = serviced building plots;

: land preparation costs = demolition, new infrastructure, decontamination, land drainage, process costs

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## 2. Land readjustment in outline (contd)

In principle, that net benefit can be distributed between the existing land owners in such a way that;

: no-one loses;

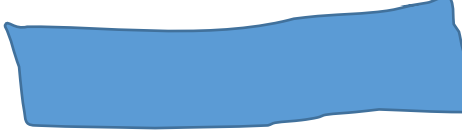
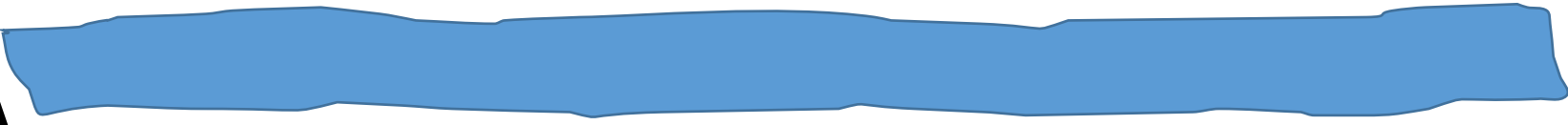
: the (possible) gains are proportional to the value of the land before (re)development;

That would be a fair distribution of the net benefits.

Built up

Built up

Built up



Vacant /  
polluted

*Land readjustment area LARA, +/- 2 ha.*

Built up

Built up

- Problems:*
- inefficient land use
  - poor connections to existing roads
  - some land is polluted
  - flood risk

Vacant /  
polluted

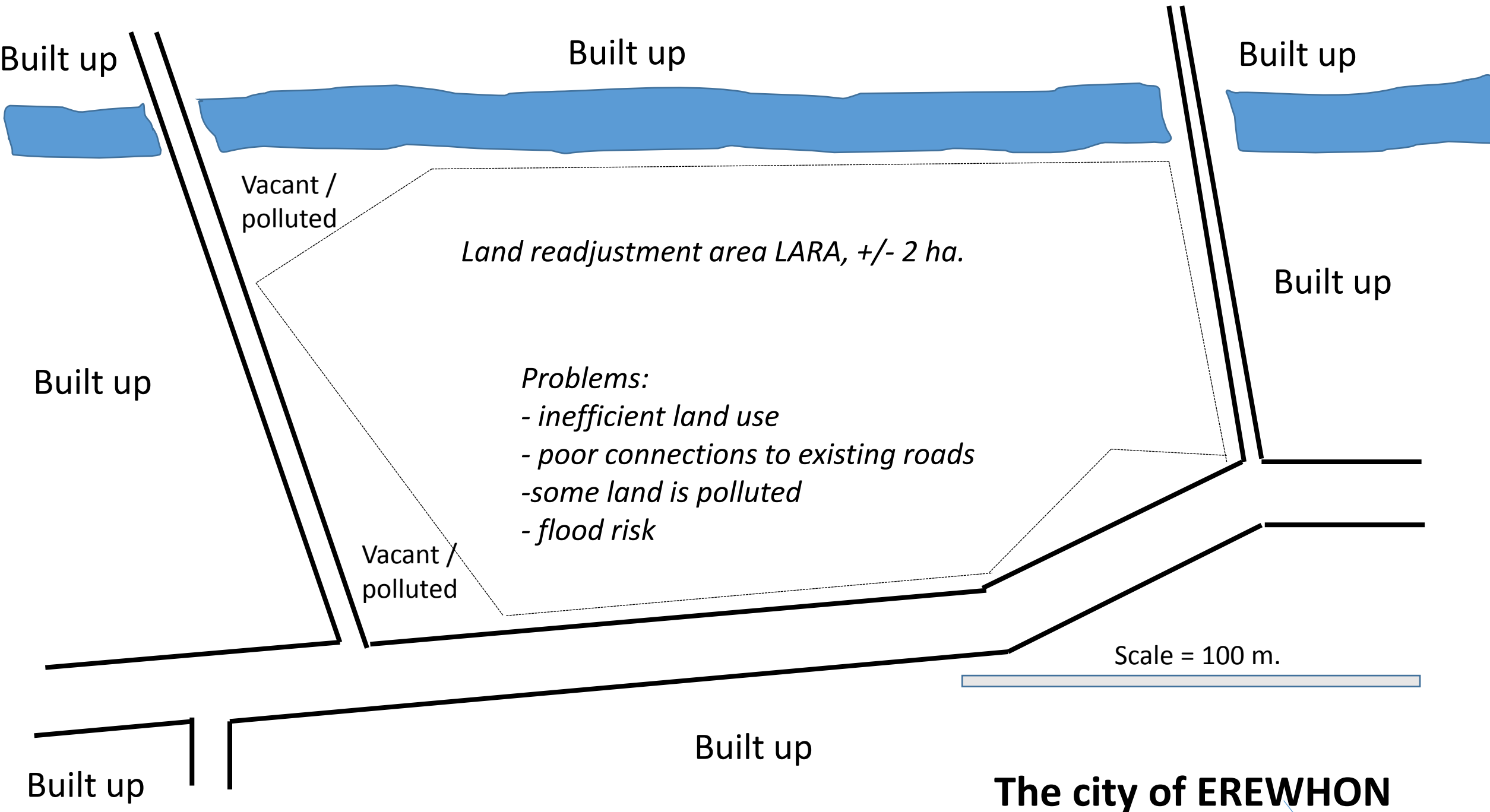
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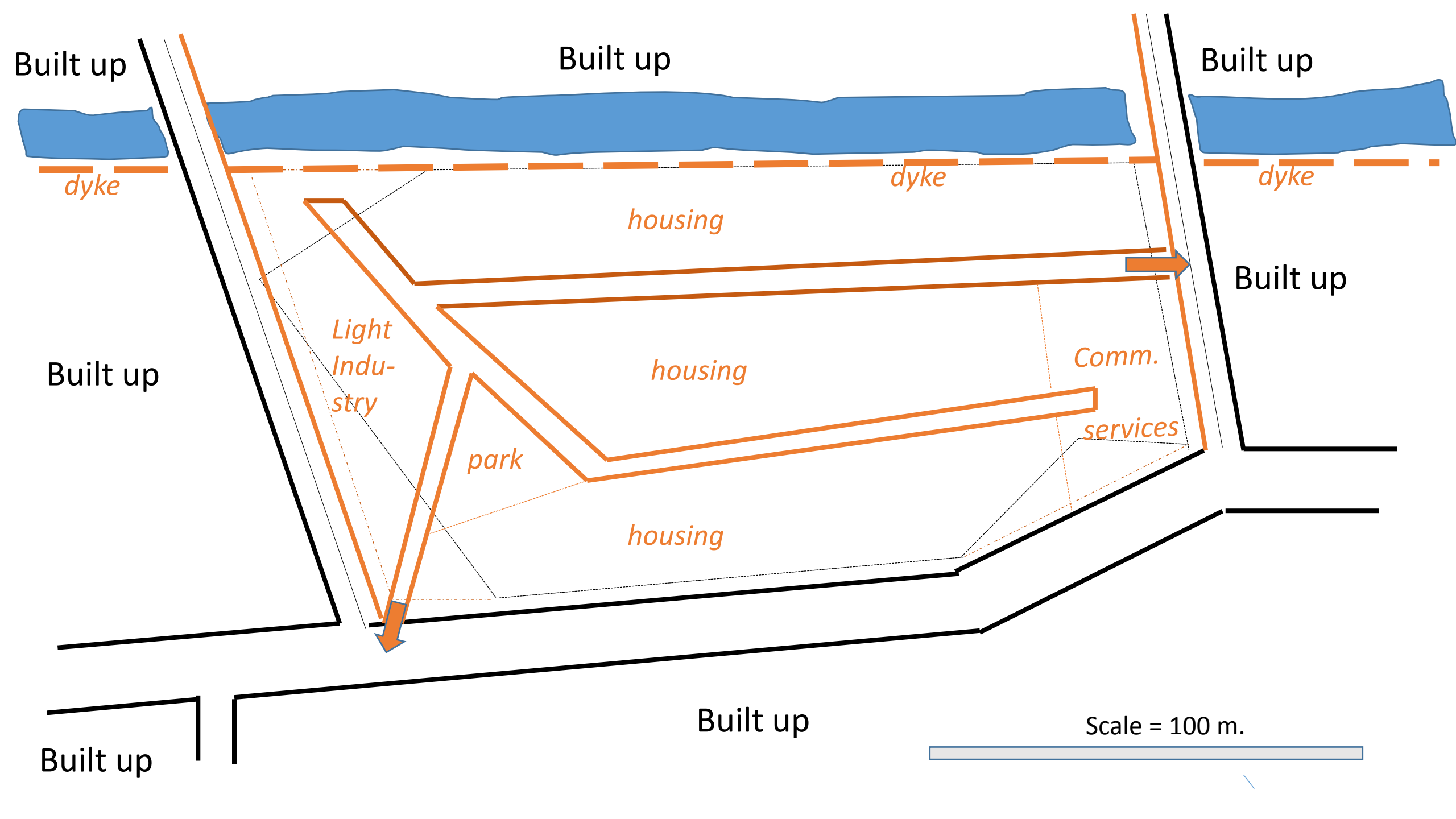


Built up

Built up

**The city of EREWHON**





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### 3. That could be achieved if:

- all holders of land rights put their existing property rights into a common pool;
- at a value agreed beforehand;
- for a (re)development which had been agreed beforehand;
- which would result in new land rights (re-plotting) with a predicted value;
- the new total net value is higher than the total old value;
- those new land rights would be allocated in an agreed way to those who had pooled their land;

And everyone should be moderately happy!

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### 4. That requires co-ordination between the existing land owners

There are big transaction costs;

The process must be facilitated by an agency;

- which enjoys the trust of the existing land owners;

: because they entrust their land rights temporarily to that agency;

- and which can, if necessary, employ public powers;

: to impose restrictions on the ways in which land owners use their rights;

So the agency must be (semi-)public.



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## 5. But, what if?

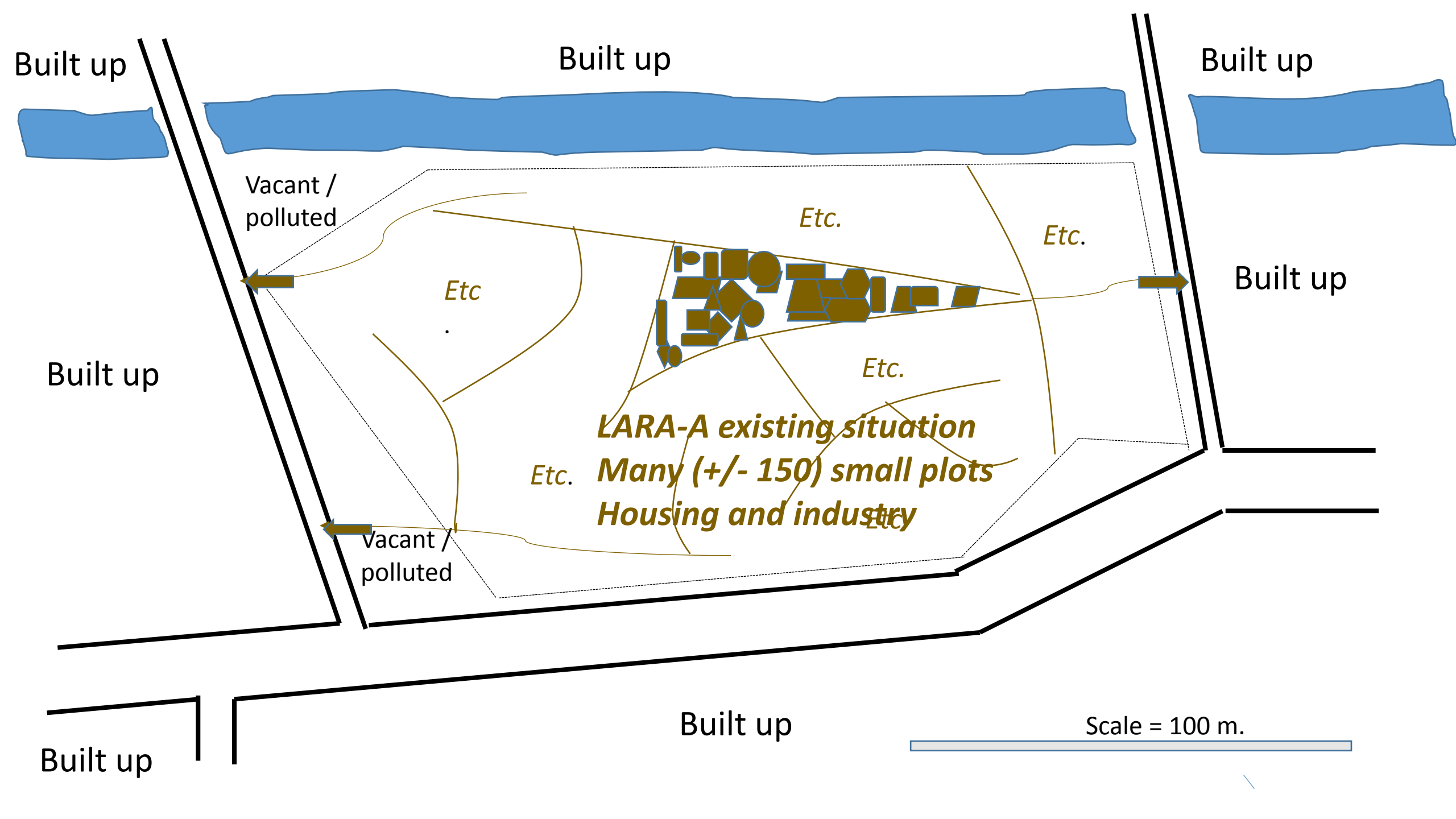
a) There are no net benefits? Existing owners will not participate if that means accepting a loss; Losses can arise because e.g.

: existing development has a high value (redevelopment of urban areas);

: not possible to redevelop in such a way (higher density, high value land uses) that new plots have a much higher value;

: new and expensive infrastructure, high land preparation costs, ambitious improvements such as big new parks;

When land readjustment is used for urban regeneration, increase in value can then be achieved only by increasing the density. The original owners of freehold rights can be compensated only with new *user* rights on a plot of land shared by others ('vertical land readjustment').



Built up

Built up

Built up

Vacant /  
polluted

*Etc.*

*Etc.*

Built up

*Etc.*

Built up

*Etc.*

**LARA-A existing situation**

**Many (+/- 150) small plots**

**Housing and industry**

Vacant /  
polluted

Built up

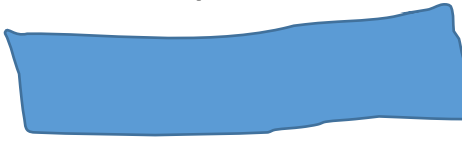
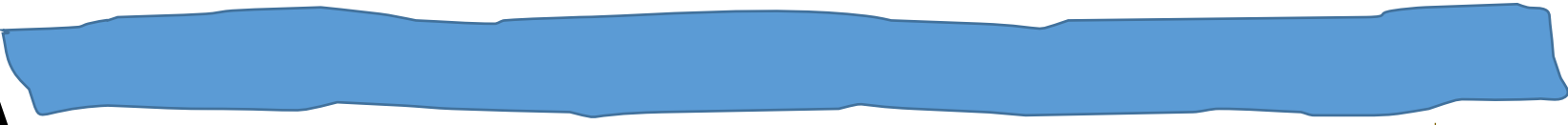
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Built up

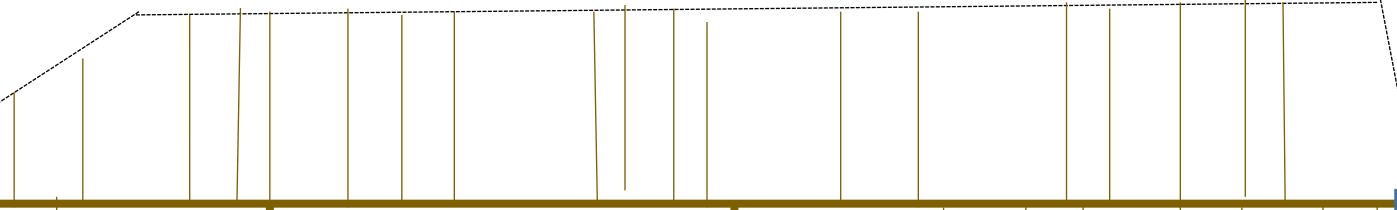
Built up

Built up

Built up



Vacant /  
polluted



Built up



Built up

*LARA-B existing situation*  
*Many (+/- 50) long*  
*narrow plots for*  
*agriculture*

Vacant /  
polluted

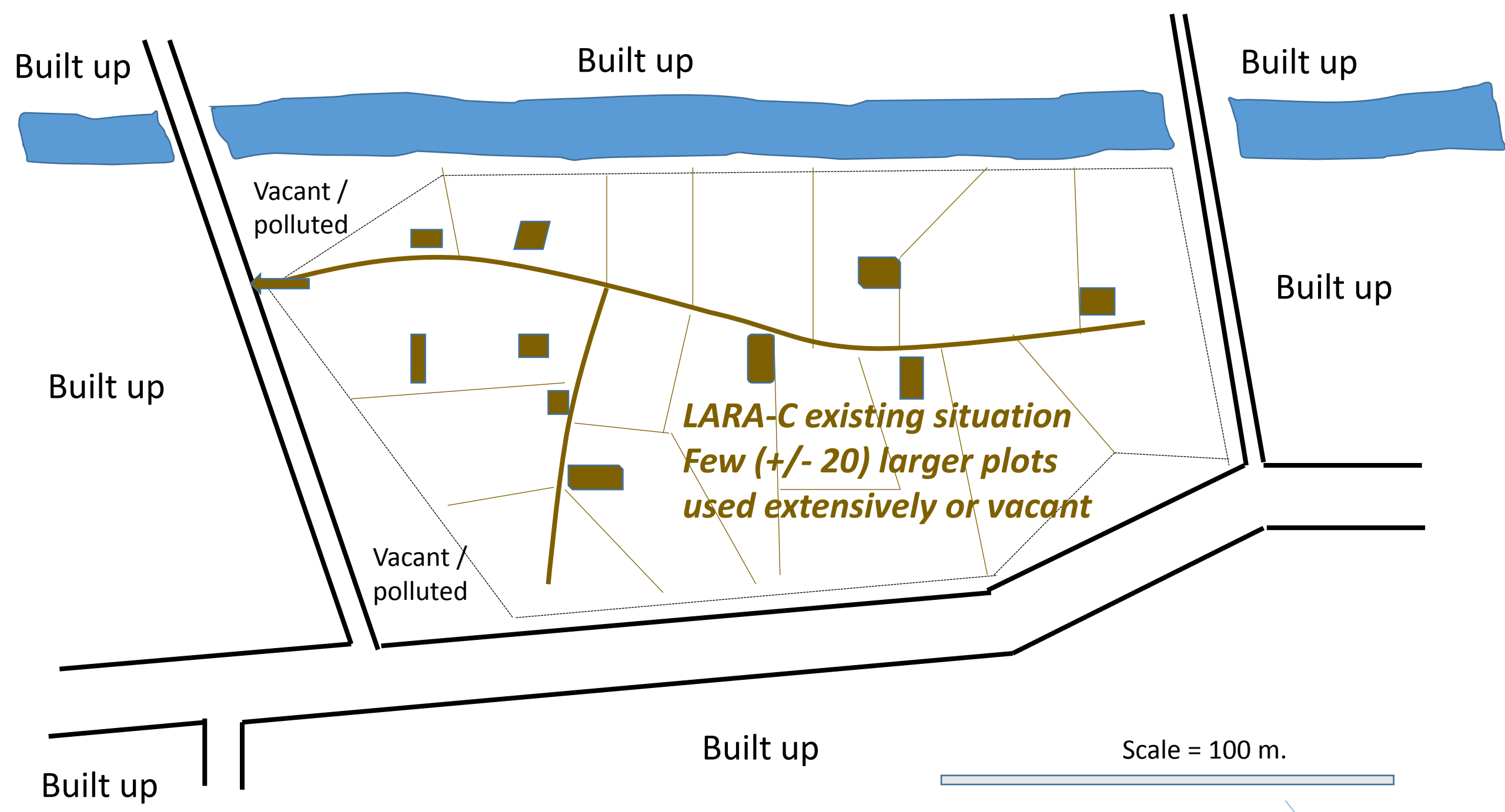


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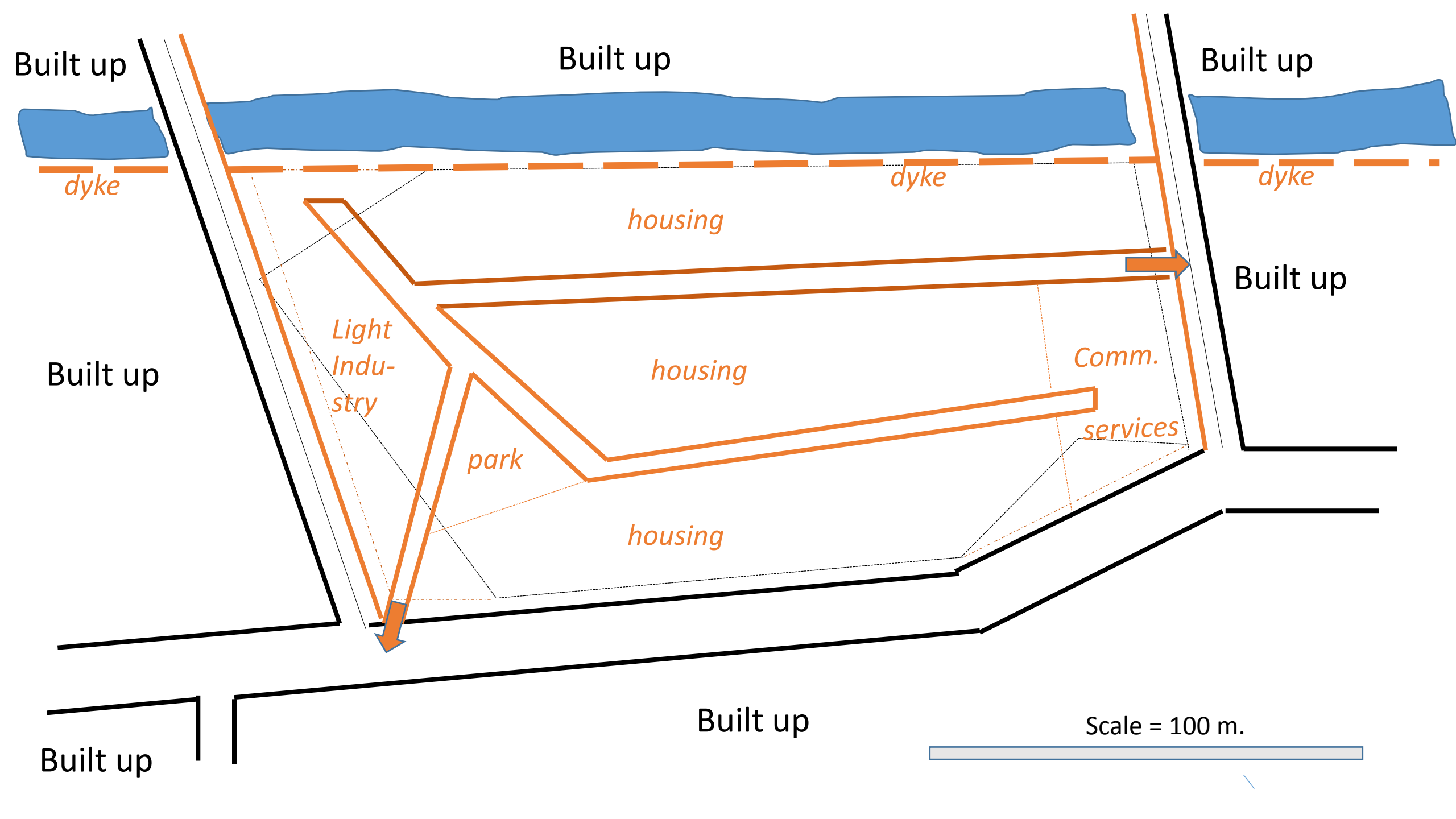
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## 5. But, what if?

b) The public agency puts forward a (re)development which would bring net benefits, but the existing land owners prefer a (re)development which would bring higher net benefits?

: e.g. a (re)development with less land reserved for parks, schools, clinics  
communal services



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## 5. But what if?

c) Not all existing landowners want to change? They are happy with the existing situation;

e.g. a large house with a big garden, even though this has less value than a plot after readjustment;

- the emotional value > market value. It is even possible that no economic incentives would be sufficient. What is the attitude to land ownership? Utilitarian or affective?

- is it justifiable to impose 'compulsory happiness'?

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### 5. But what if?

d) Some existing owners want a value for their property more than their 'fair share' of the total existing value?

- they can achieve a strong bargaining position by waiting until (almost) all of the other landowners have agreed to participate under the agree prices;

- or initially they support the (re)development, later withdrawing, demanding a higher price for their land?

'Hold-outs'



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### 5. But what if?

If owners do not want to sell (case c), or they 'hold out' for higher prices (case d), can the land readjustment nevertheless be imposed on *all* landowners in the interests of those who *do* want it?

- if so, how great should the majority be of those who do want it?
- and should those who do *not* want it be compensated? In what way? Can they demand to be 'bought out'?
- and those who hold out? What price should *they* receive?

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### 5. But what if?

e) The land owners in areas *adjacent* to the (re)development also benefit? Can they be required to contribute?

f) The values of the new land rights, when they are allocated (usually many years later), are less than forecast?

- who bears the risk?

g) The relevant government authorities are not trusted by the public.

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## 6. Legal procedures

A country practising land readjustment) has to respond to those questions with appropriate procedures. These can be grouped into:

- procedures for establishing the public agency and controlling its actions;
- procedures for making the land readjustment plan and for adopting it legally;
- procedures for determining the content of the (re)development project:
- procedures for dealing with non-co-operating land owners and with land owners who do not want to benefit;
- procedures for financing those parts of the (re)development which will not be charged to the existing land owners
- procedures for determining who bears the risks.

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## 6. Legal procedures (contd)

The legislation specifies those procedures, but;

- it is desirable to have as much consensus as possible;
- and this can take a long time to achieve.

Those procedures must be anchored in law, including the protection of property rights;

- e.g. what kinds of rights can be acquired and at what prices;
- e.g. what kinds of rights can be allocated.

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### 7. Why / when use land readjustment?

Comparison with other methods of land assembly:

a) Suppose that the public agency has assembled the land already, when that was easier / cheaper;

- land held vacant as a land bank. No more problems!

- disposed of under long leases. This doesn't make land readjustment much easier, because such leases are usually strongly protected;

b) Private, by amicable acquisition:

- unlikely to succeed, because of co-ordination problems, unless one developer puts owners under great pressure, or deceives them;

- or unless there are just a few big plots in the land readjustment area;

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### 7. Why / when use land readjustment?

#### c) Expropriation:

- individual negotiations rather than group negotiations;
- legitimacy problem;
- legal limitations on when expropriation may be applied (e.g. Kelo in the USA);
- fixing the price by expropriation;
- legal delays;
- the indirect consequences of the legislation regulating expropriation and the ways in which that is used.

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## 7. Why / when use land readjustment?

### d) Public-private partnerships:

- private developers acquire amicably where possible, where not possible land is acquired (if necessary compulsorily) by public agency;
- can work quickly;
- but activities of public agency are not transparent, because of need for commercial secrecy;
- dividing the financial risks;
- risks of corporatism

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## 7. Why / when use land readjustment?

The choice of the best method depends on the circumstances:

- the existing situation;
- the desired new situation;
- land and property prices;
- the legal rules;
- trust in the relevant public authorities.



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## 8. Regulation, taking, expropriation

Regulation vs. taking;

- regulation restricts the exercise of property rights;
- that can 'take' some of the value of those rights;
- not all regulation is a taking;

Taking vs. expropriation;

- expropriation takes *all* rights

Expropriation vs. voluntary co-operation

As voluntary as possible. But land readjustment can be mandatory because landowners who do not have ownership of the *total* area designated for development must not be allowed to obstruct the realisation of the wishes of other landowners or of the wider public.

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### 8. Regulation, taking, expropriation

Land readjustment is not expropriation if it meets the tests of:

- the 'fair balance' test of the European Court of Human Rights;
- the Compensation Test of the U.S. Supreme Court;
- protection of private property under the First Protocol to the European Convention on Human Rights:

Land readjustment is a lesser infringement of property rights than expropriation.

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## 9. The four country cases

Land readjustment used for:

- consolidating fragmented land holdings for agriculture (Germany, the Netherlands: not considered further here);
- land assembly for urban development on undeveloped land (Germany, Israel, Japan, Netherlands)
- but not for urban regeneration. Why?
  - : existing land values are already high
  - : economic benefits mainly by vertical land readjustment i.e. readjustment of property rights not in the breadth but in the height. And that is not regulated in Germany, Japan, The Netherlands.