

# “Financing Planned Retreat: Can Land Acquisition Be Made More Affordable?”

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# Growing tensions at the coastline

- Climate change threatens to expose coastal development and natural environments to increased likelihood of harm
- Tensions between (a) the dynamic nature of the beach and (b) the rigid, fixed boundaries that define private property rights and coastal settlements
- The long-term cost, in economic and environmental terms, of maintaining the prevailing protection-based approach to coastal management in Australia, may be too great to bear



# Retreat as an alternative adaptation strategy

- Retreating from vulnerable and/or sensitive coastal land provides two benefits:
  - a) Prevention - minimise exposure to risk of natural hazards;
  - b) Restoration - creates space that accommodates inland coastal recession
- Optimal means of effecting retreat - acquisition of land (compulsory or voluntary) – government ownership confers the right to possess, and entitlement to exclude

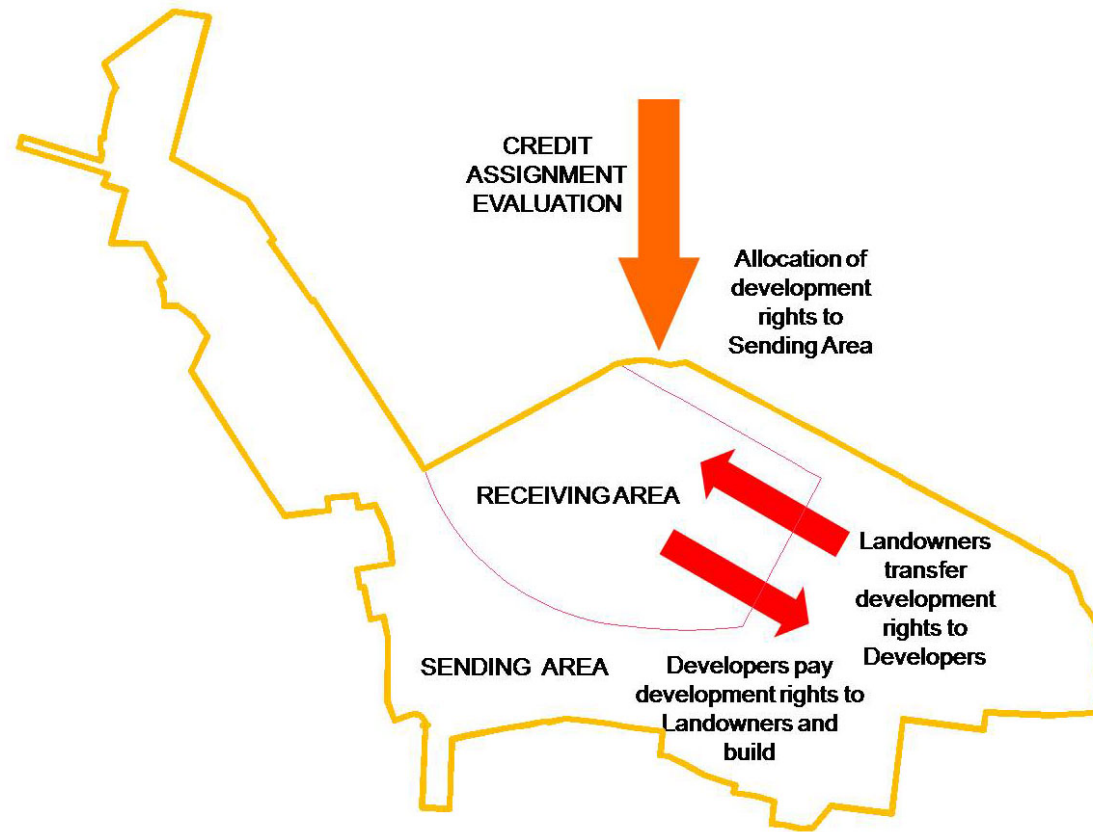


# *Acquisition of Land Act 1967 (Qld)*

- Power to acquire vested in the Crown, local government, or another 'constructing authority' (s 5)
- Land can be acquired compulsorily or voluntarily (div 3 and 3)
- An owner whose estate in land is acquired is entitled to compensation. Based on 'the value of the land taken' = market value (s 20)
- Compensation expensive, given market value of coastal land is high



# 'Transferable development rights' schemes



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- Market-based scheme – remove or minimise government participation
- Value of TDR credits - Too high will discourage developers
- Trade of TDR credits enough to incentivise relocation?



# 'Mortgage contingent loans'

- The property owner cedes the abandoned property to the government
- The government acts as guarantor for a commercial loan taken out by the evacuee who purchases a new house elsewhere
- The government holds the first mortgage over the new property
- The government may sell the mortgage into the commercial market



# ‘Givings recapture’

- US law - just compensation for land acquisition (‘takings’) = full market value
- However, actual value of the land is less than the market value because government investments have distorted the market’s reaction to risk, artificially inflating land values (‘givings’)
- Governments should compensate landowners for ‘legitimate, investment-backed expectations’, but not for governmental ‘givings’ attributable to past flood responses’





# 'Natural acquisition' of land

- Land below MHWMM is property of the Crown (state)
- As MHWMM moves inland with SLR, it will eventually overlap fixed surveyed property boundaries
- Overlapped property becomes property of the Crown
- No compensation payable – falls outside procedures for compensation under land acquisition legislation, and no constitutional guarantee of just terms compensation at state level



# Concluding thoughts

- These tools are a point of departure, and require further research and refinement
- Legal mechanisms will require political endorsement and community support
- However, legal mechanisms that minimise economic, environmental, and social trade-offs more likely to gain broader acceptance



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