



Beyond the bundle: expanding our understanding of contemporary Property Rights

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The mission of the **Asia Pacific Centre for Complex Real Property Rights (APCCRPR)** is to:

Specialise in land tenure and real property rights research, advocacy, public policy development and consultancy.

Our remit includes land management, political economy, and conflict minimisation issues relating to:

- Property rights in land and buildings;
- Politics and Economy of Emerging Property Rights (e.g. water, carbon, biota);
- Urban Planning and Compensation;
- Leasehold issues, including expiration and renewal;
- Institutional arrangements and land trusts;
- The financial management of inalienable customary land in Australia and the South Pacific; and
- The challenge of Common Property in urbanised areas.

Introduction

Background

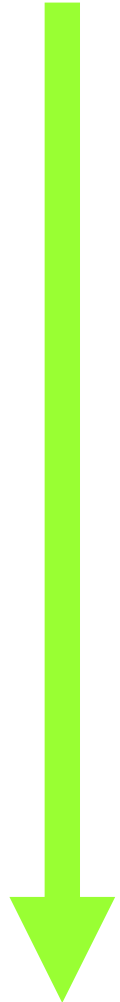
The 'Kopyje' example

The Clash of Rights

The Spectrum of Interests

Towards a Constellation

Directions



Research Continuum

Collaboration with API & ARC

- 1) "Carbon Property Rights in Context" – JEP
- 2) "Beyond the Bundle: expanding our understanding of contemporary Property Rights" – PRRES
- 3) "Property Rights and Carbon Sequestration: a preliminary review of the Australian situation" - NZCEL
- 4) "Carbon Property Rights, Cities and Climate Change" - World Bank





MEDIA RELEASE

Senator the Hon Penny Wong
Minister for Climate Change and Water

17 March 2008

GOVERNMENT ANNOUNCES DETAILED TIMETABLE ON EMISSIONS TRADING

Minister for Climate Change and Water, Senator Penny Wong, today announced the Australian Government's detailed timetable for introduction of emissions trading.

The timetable includes several important stages, including:

- March to June 2008: preliminary consultations on technical issues with industry and non-government groups;
- July 2008: public release of a Green Paper on emissions trading draft legislation, preliminary consultations;
- December 2008: public release of exposure draft legislation;
- March - Mid 2009: Bill considered by Parliament;
- 2009: Consultation on emissions trading regulator established;
- 3rd quarter 2009: Act enters into force, regulator established;
- 2010: Emissions trading scheme will commence.

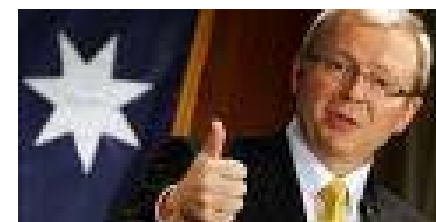


Peter
Garrett

Kevin
Rudd



Don Quixote





Existing property law is vexed and often embedded over metaphors such as “bundle of rights” to explain a normative view of property.

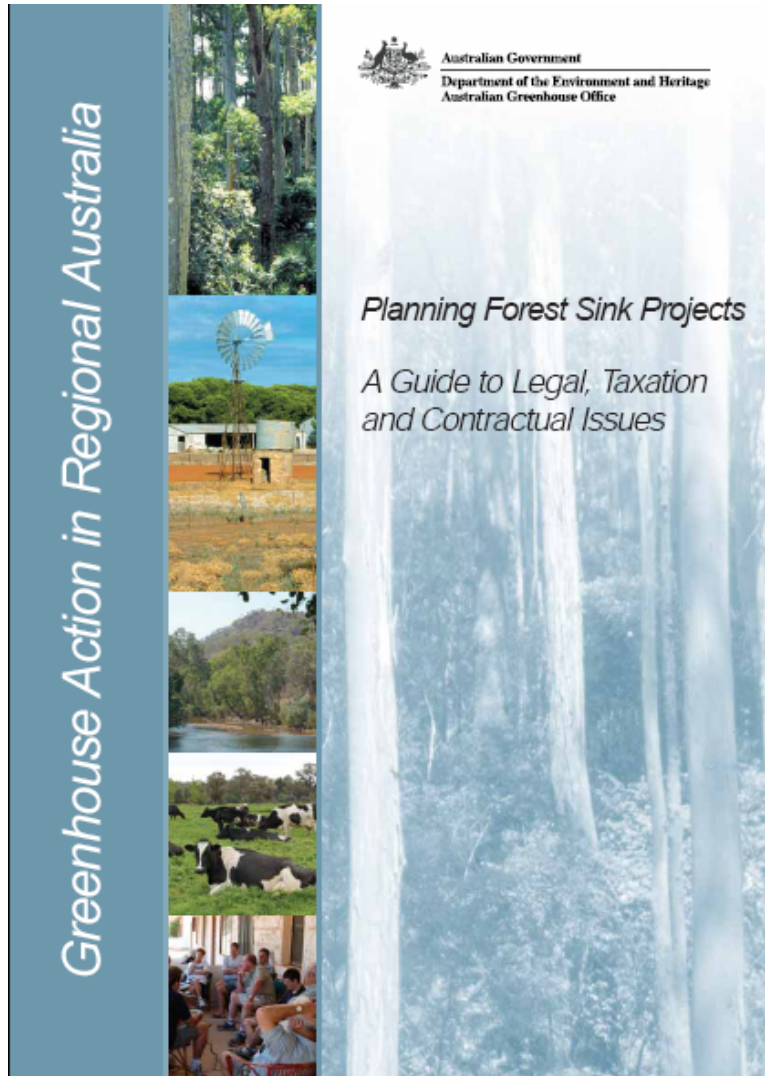
Carbon *sequestration* rights

Carbon property rights.

Garnaut Report

Carbon Pollution Reduction Scheme (Green / White paper)

Carbon *sequestration* rights (CSRs).



All Australian States (but not Territories) have legislation to define CSRs.

The loosely stitched seams of legislation, regulation, and standards that are holding the notion of carbon property rights and their trading together are beginning to feel the tension.

Profit à prendre.

“Kopyge”, Canbelego, NSW

8,887 ha. Holding

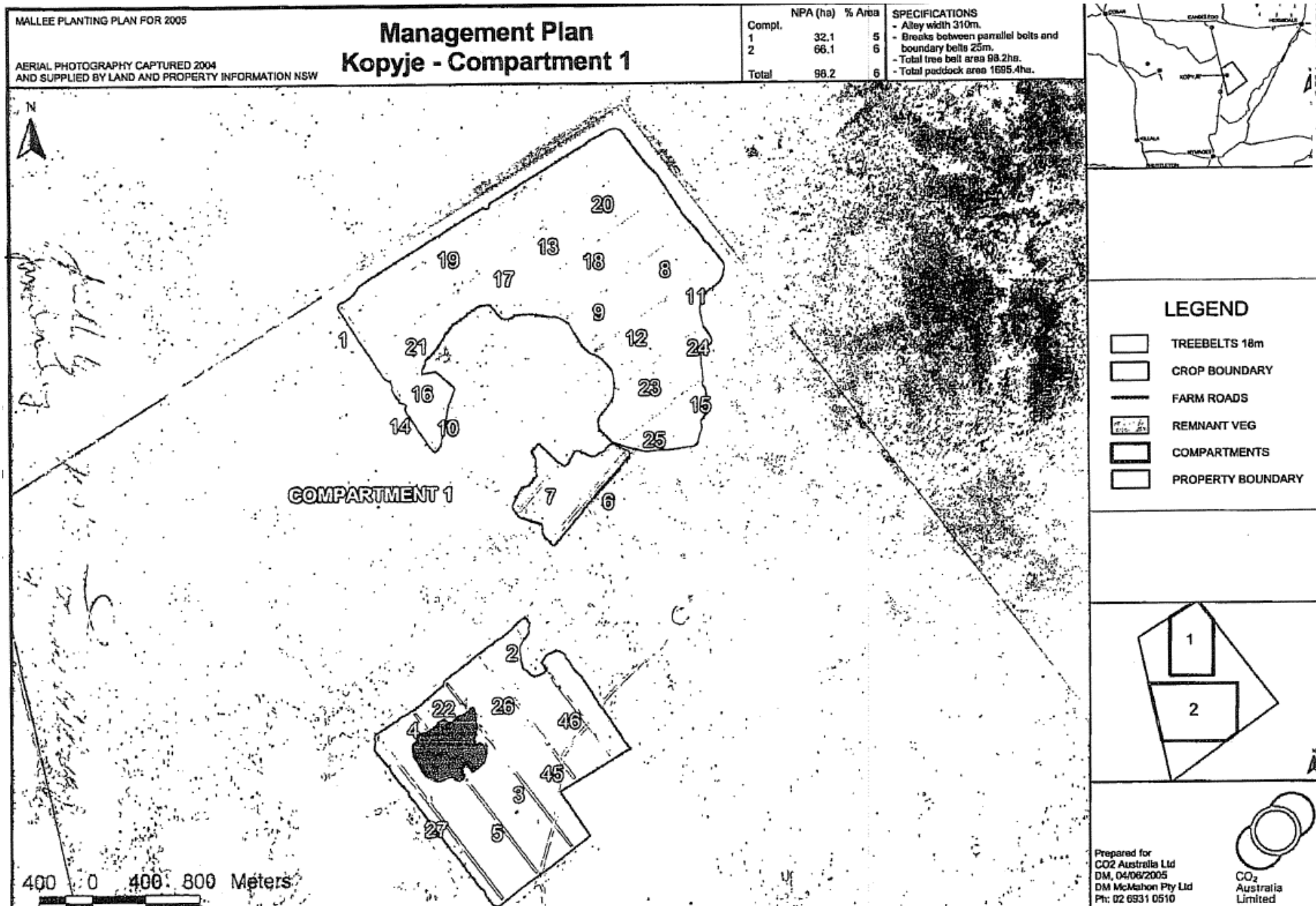
2,666 ha. Dryland
cultivation

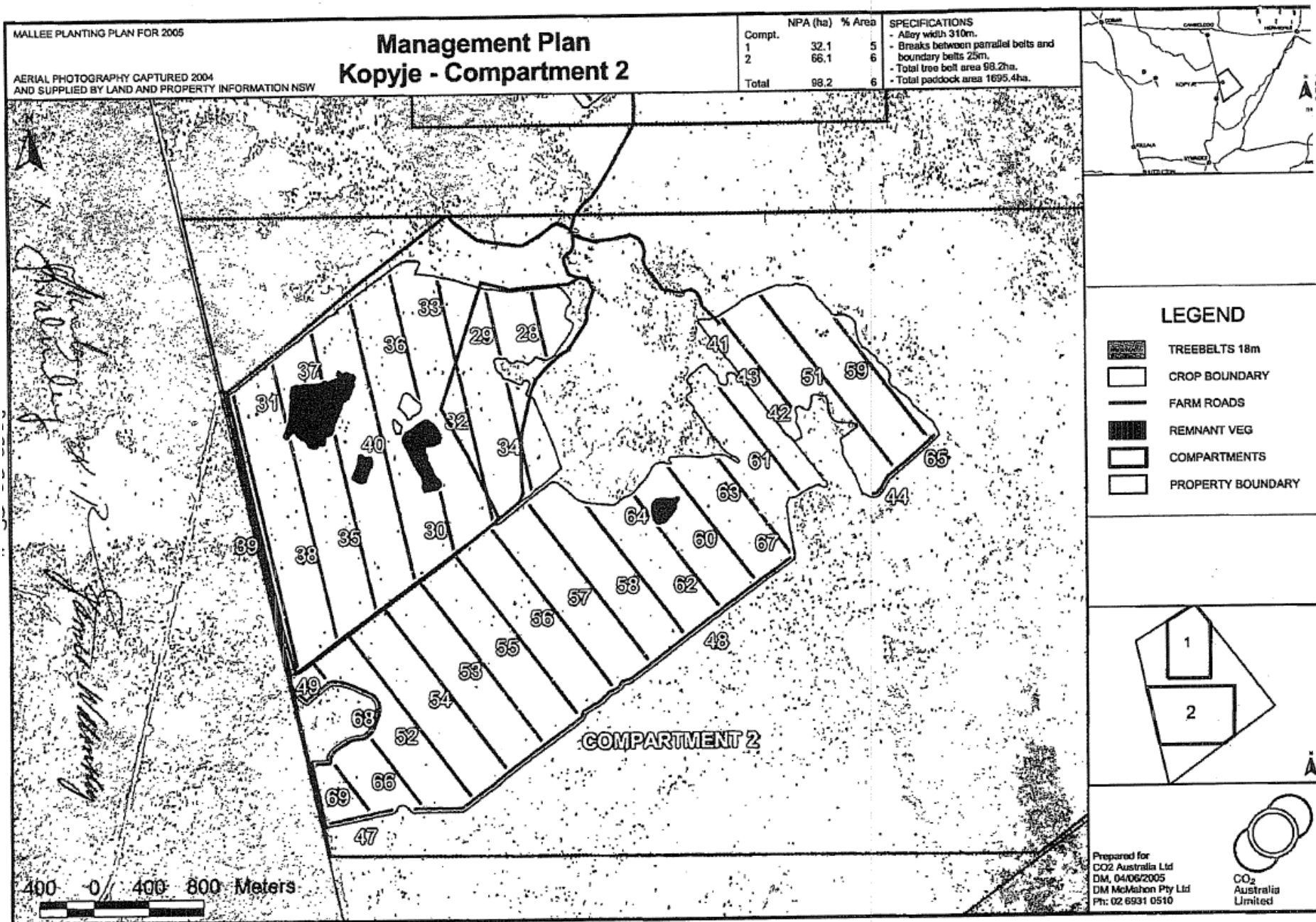
4,000 ha. Light timbered
grazing country

2,221 ha. Thick timbered
grazing country



“A Forestry Right has been registered on title over 90 hectares of the subject holding. Due to the uncertainty of the market place surrounding the long-term affects, and in particular the profitability of carbon sequestration, the presence of this Forestry Right will have a negative affect on both marketability and potential market value of the holding.”





Case Study



The ability to understand and scope the emerging terrain and impact of property rights in carbon (as with many other contemporary property rights) requires one to delve into a set of complex, adaptive, relations. These range from the way in which property rights are designed to promote global ecological sustainability, through to the way in which carbon property rights are implemented in concrete situations like ‘Kopyje Station’.



Interdisciplinary research into property rights:

- Relations
- Interests
- Matrix
- Constellation



Bundle of Sticks

Bundle of Interests

Finding a way forward...

- Carbon property rights do not have to be built into existing legal framework of Australian property rights
- Certainty about rights, obligations and restrictions
- Engage legal, social, economic and ecological
- Need to 'reconceptualise' property interests

- Web of property interests



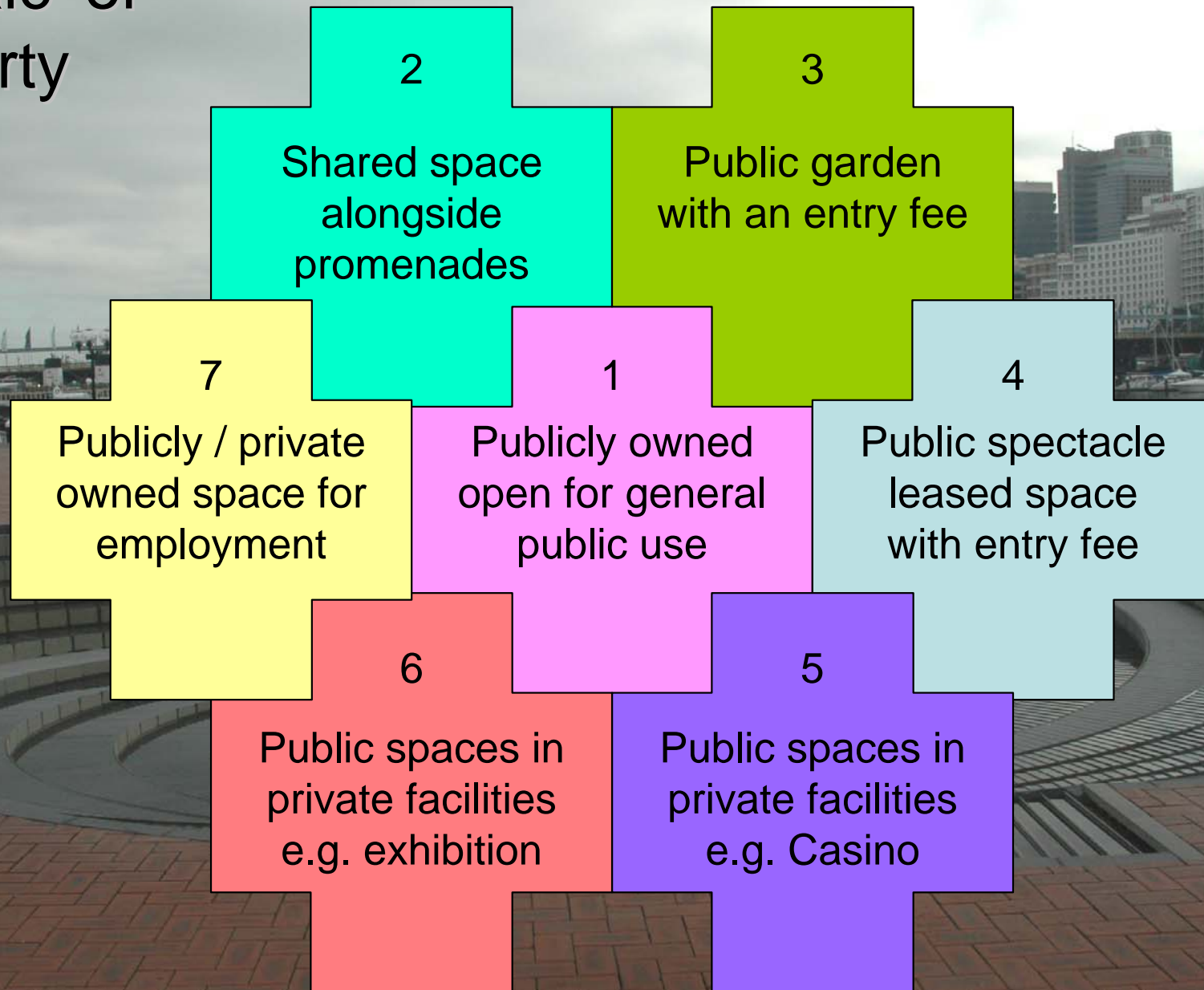
A web of property interests needs to be distinctive, interconnected, functional, and have context.

Arnold's metaphor sees the web as "a set of interconnections among persons, groups, and entities each with some stake in an identifiable (but either tangible or intangible) object, which is at the center of the web. All of the interest-holders are connected both to the object and to one another"

(Arnold, 2002, p.333).



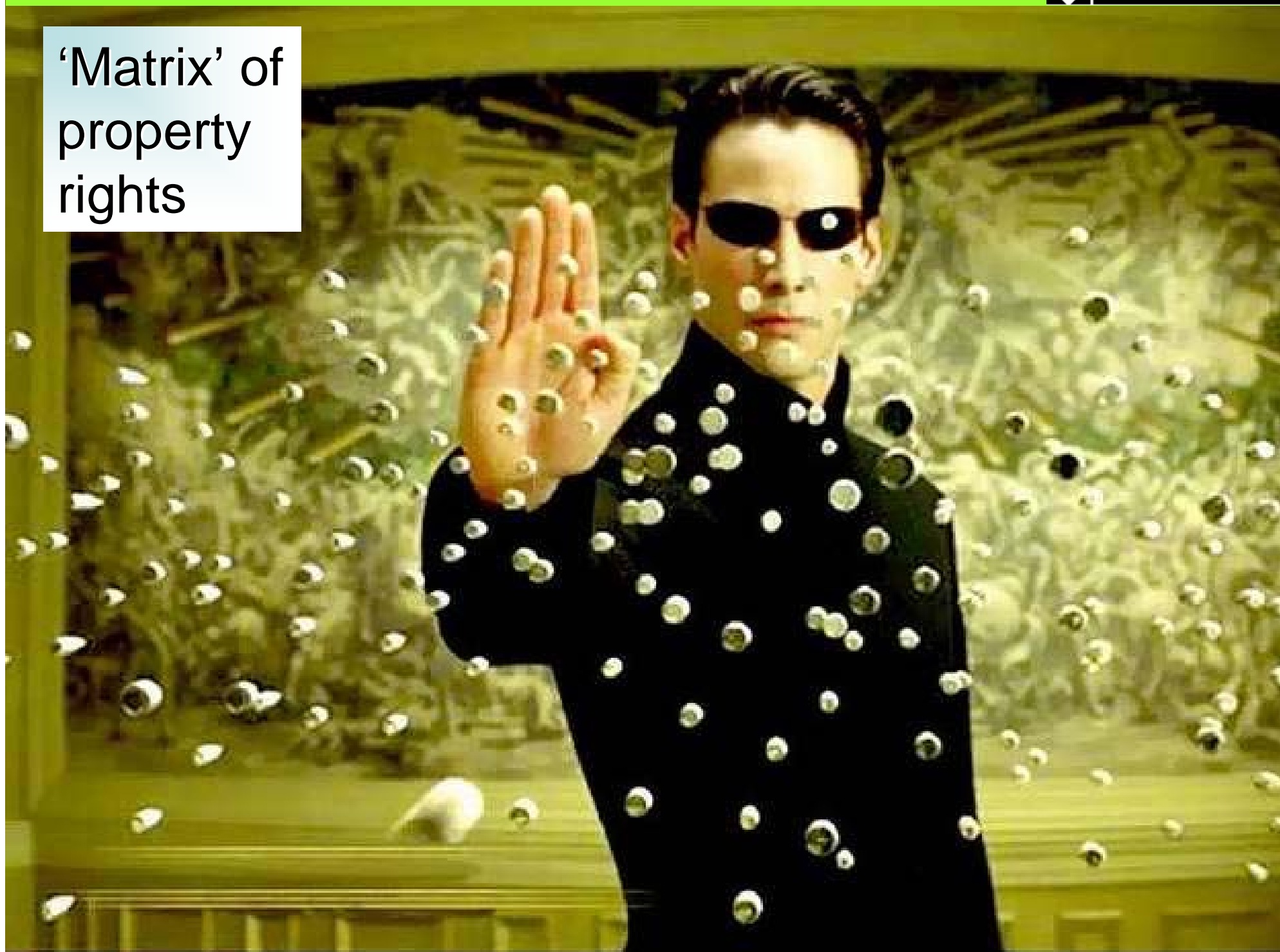
'Mosaic' of
property
rights



Mosaic of Property Rights

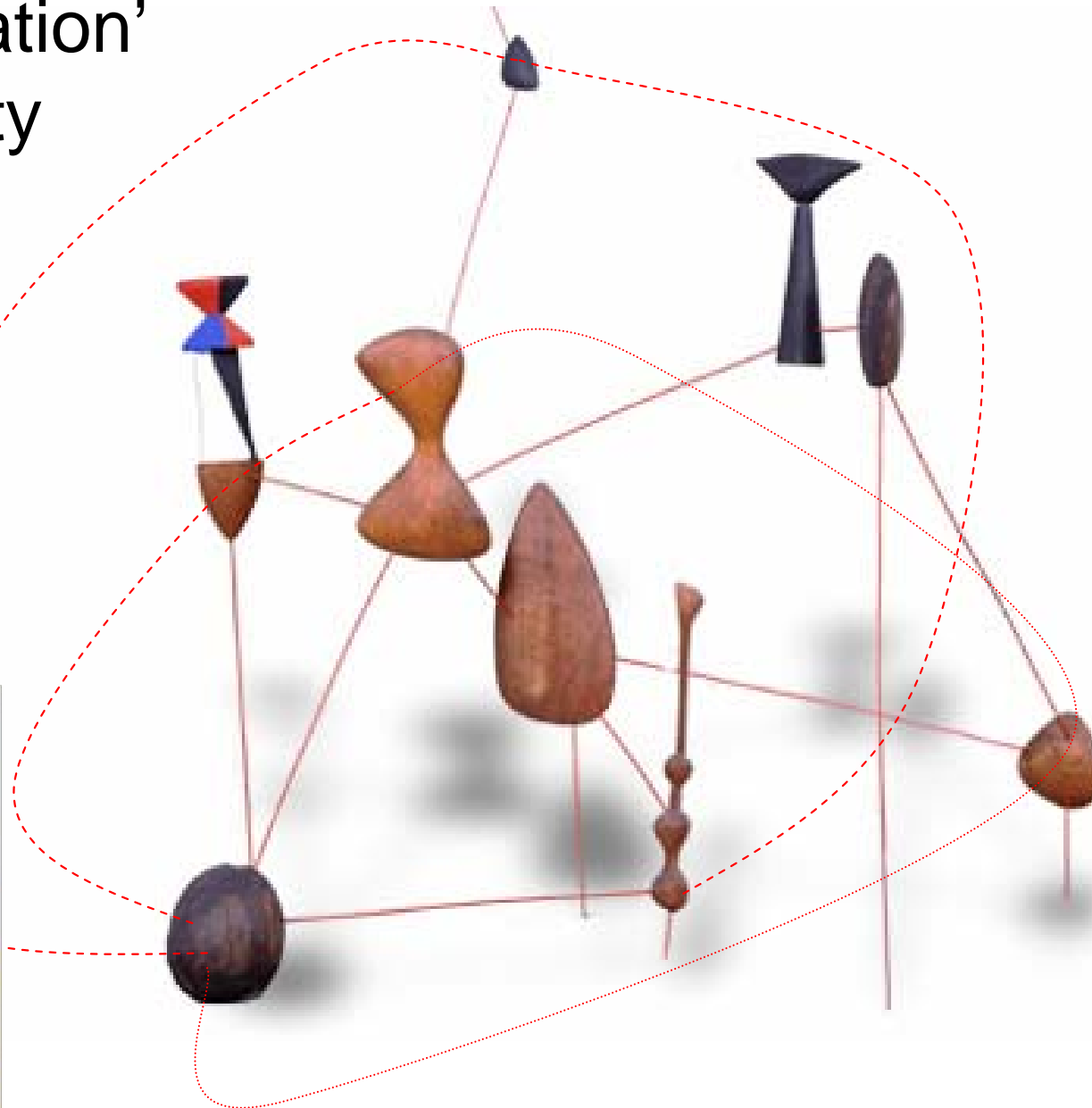
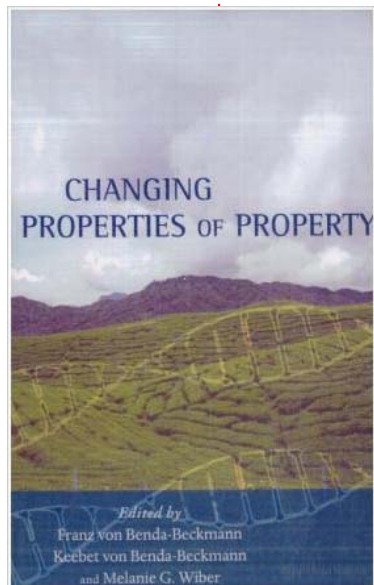


'Matrix' of
property
rights



Complexity

'Constellation' of property rights





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