



PBL Netherlands Environmental
Assessment Agency

Complex social change requires simple and stable land-management rules

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- › Great transitions
- › Great complexity



- Great transitions > stable rules
- Great complexity > simple rules



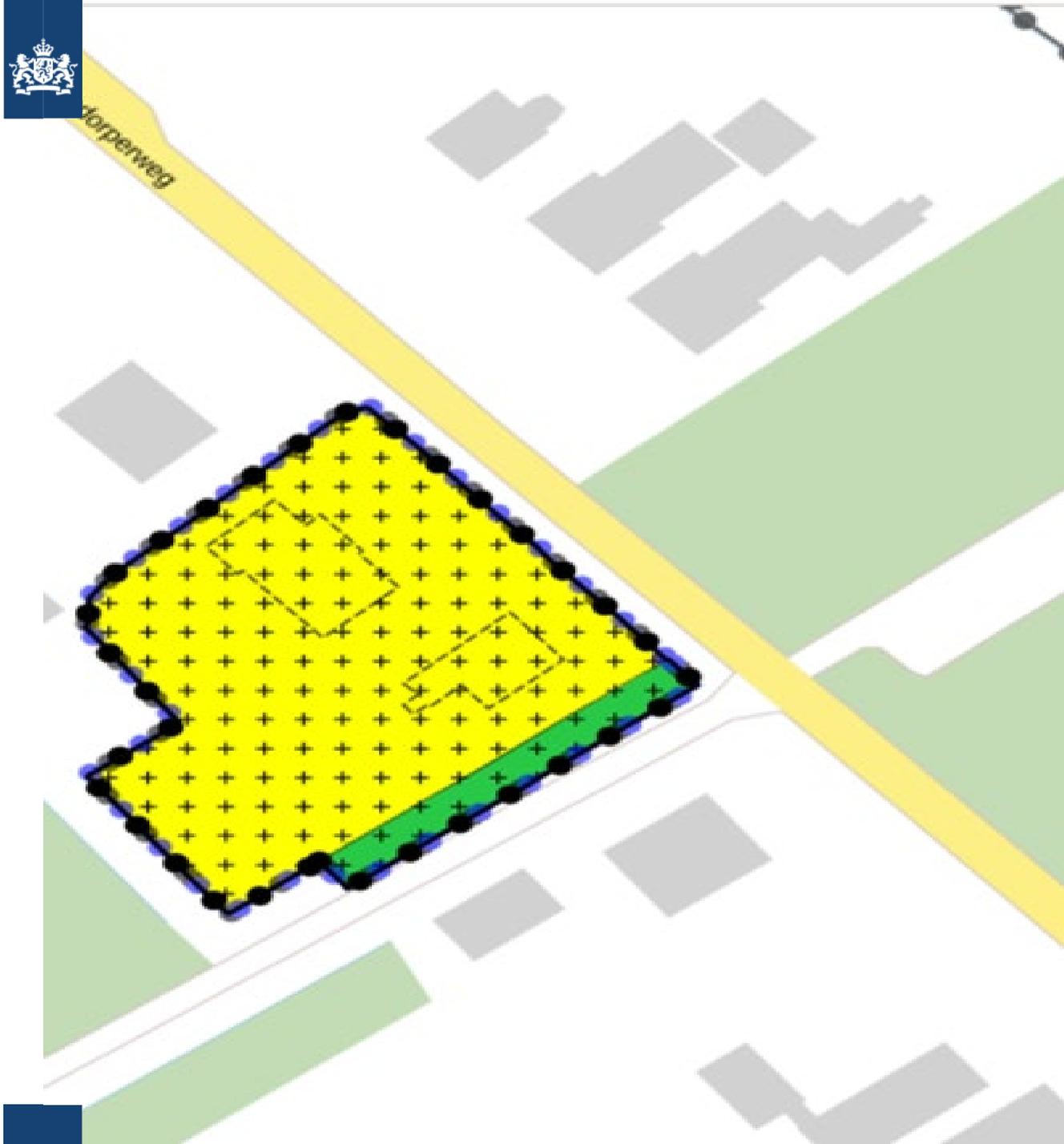
Rules as mirror of changing and complex societies?

“Conventional wisdom holds that as a system becomes more complex, the rules governing that system also must become more complex (Zywicki, 1998, p. 143)”



Postage-stamp planning

20,000 land-use plans in fewer than
400 Dutch municipalities....





Rules as mirror of changing and complex societies?

“Conventional wisdom holds that as a system becomes more complex, the rules governing that system also must become more complex (Zywicki, 1998, p. 143)”

“the proper response to more complex societies should be an even greater reliance on simple legal rules” (Epstein, 1995, p. 21).

Why?



1 Better use of local knowledge and creativity





2 Less legal obsolescence





2 Less legal obsolescence

=

More legal stability





3 Willingness to invest





4 Separation of powers





5 Enforcement





6 Lower administrative costs





6 Lower administrative costs

=

A smaller “lawyers’ paradise”





7 Less opportunism





Design of simple rules

- > Rule level
- > System's level



Condition 1: accessible





Condition 1: accessible

A municipality in California (US) in 2016:

The approval of a vesting tentative map by the city council shall confer a vested right to apply for permits needed to proceed with development and have the city exercise its discretion to approve, disapprove, or approve such permits with conditions, on the basis of ordinances, policies, and standards in effect at the time the application was determined to be complete pursuant to Section [XXX] of the Government Code.





Condition 2: binary





Condition 2: binary

A municipality in Lombardy (Italy) in 2006:

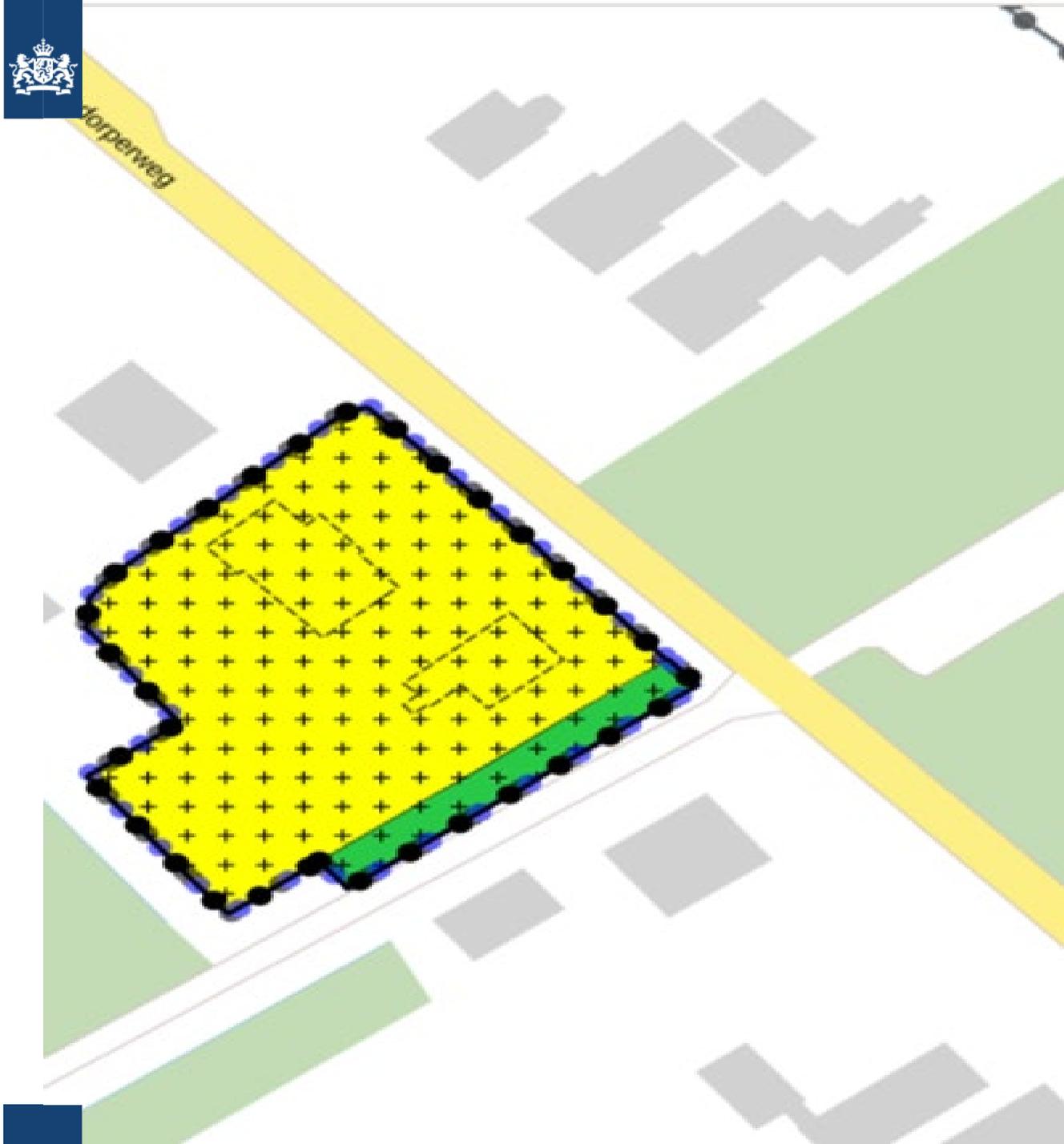
The surface area of a private courtyard . . . must not be less than one fifth of the surfaces of the walls delimiting it. . . . In the case of irregularly shaped courtyards, or those with walls of greatly unequal lengths, the local Planning Office will establish which criteria are to be applied for calculating the surface areas of the same.





Condition 3: general

- Non-location/situation-specific





Condition 3: general

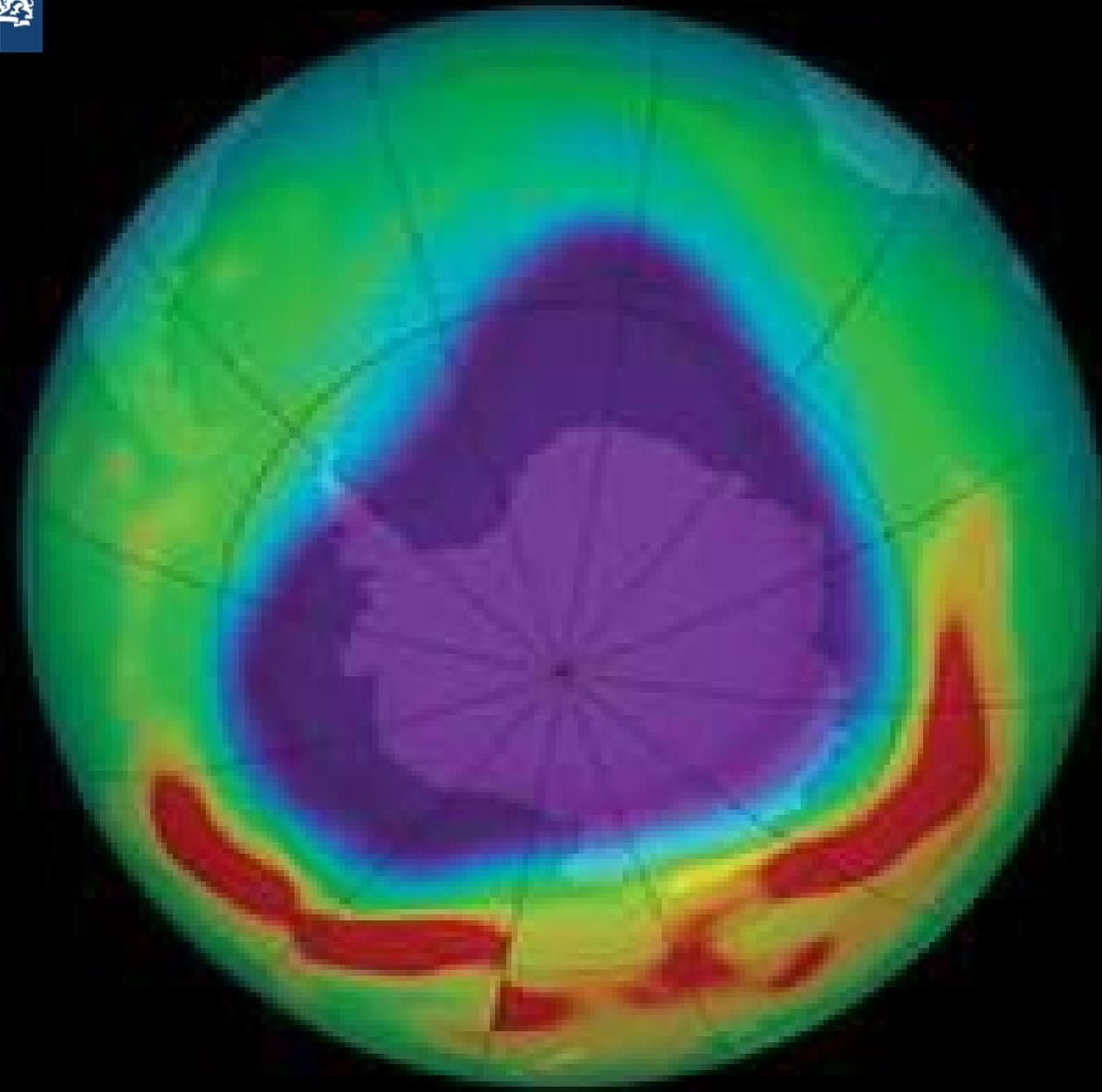
- Non-location/situation-specific
- Degree of openness





General rules \neq laissez faire

- CO2 tax
- Banning CFCs (Montreal Protocol)





General rules \neq laissez faire

- CO2 tax
- Banning CFCs (Montreal Protocol)

Local land-use regulation:

- Max energy use (KWH / m²)
- Min biodiversity (e.g. BO01 in Malmö)





To conclude

- › No plea for inertia, rules need to change
- › Change for stability, through more general rules
- › Change *within* the rules rather than *of* the rules themselves



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- › No plea for inertia, rules need to change
- › Change for stability, through more general rules
- › Change *within* the rules rather than *of* the rules themselves
- › Beyond instrumentalism
- › Beyond the risk-rule reflex



Contact

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Read more:

Moroni, S., E. Buitelaar, N. Sorel & S. Cozzolino (2019), 'Simple rules for complex urban problems. Legal certainty for spatial flexibility', in *Journal of Planning Education and Research* (in print).