

REGULATING LAND USE FOR PROFIT: THE CASE OF NEWPORT QUAYS

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Urban and regional planning concerns the integration of land use with social, economic and environmental considerations to improve the built and social environments of communities. It is a process that addresses the intersections of public space, civic culture and everyday interactions. However, urban regulation in western societies is continually evolving, as governments respond to changing economic conditions such as the recent meltdown of global financial markets. This paper addresses a case where a State Government explicitly diverted its land use policy away from social and environmental concerns to a concern with fostering local capital accumulation through property development. This diversion of land use policy is illustrative of neoliberal responses to economic weakness at a regional level by governments that have limited control over other policy levers affecting the economy.

In Australia, national, state and local governments influenced by neoliberalism have increasingly sought to establish an economic climate that facilitates capital accumulation. This has been a higher priority than concerns over social well-being. Successive governments have privatised state assets and dismantled labour laws and other social protections. The Australian Government has privatised formerly public assets in banking and telecommunications. State Governments in South Australia and Victoria have followed suit by privatising power and water supplies (Spoehr 2003). Where capital works must be undertaken public-private partnerships have been endorsed, typically leading to an outcome that has the public sector bearing the risks and the corporate sector reaping the profits. The embrace of neoliberalism by governments has been associated with a subordination of social policy to economic policy. The rhetoric of 'steering not rowing' usually signals disengagement with direct management of the economy through the

privatisation of utilities and contracting out of services formerly provided by state agencies (Jessop 2002).

Beer *et al.* (2005) note that neoliberal steering of the economy in Australia has not been accompanied by a reduction in public expenditure over the past three decades. However, the terms of engagement have continually changed as governments seek ways to deal with unrelenting economic uncertainty in the global economy. A study by Jessop (2007) of state power, strategy and structure suggests the reflexive nature of this response to global economic uncertainty, arguing that the structural constraints on the state require continual changes of strategy. That is, the state is not a homogeneous structure but is activated by human agents who privilege certain actors and encourage particular strategies to advance the interests of the state. Other actors within and without the state apparatus operate reflexively within the same structural contexts in ways that place limits, albeit elastic ones, on the capacity of the state to respond to recurring economic crises.

In a recent book, Harvey (2010) suggests that the state must continually respond to recurring economic crises because capitalism relies on amorality and lawlessness to enhance the accumulation of capital and hence is an inherently unstable and crisis prone system. The global financial crisis, argues Harvey, is the logical outcome of three decades of neoliberal economic restructuring, a period characterised by a proliferation of crises. The current financial crisis, he argues, has been driven by a need to attain a compound annual growth of three per cent for the system to remain stable. The rapid economic growth of China, India and other developing countries has created a massive shortage of places where surplus profits can be invested to achieve interest. Investors have responded by creating 'fictitious capital' in derivatives, in futures, carbon trading and in the land market that are based on an illusion of wealth creation divorced from the exchange of real commodities (Harvey, 2010: 17). In an earlier work, Harvey (2006: 415) suggests that the embrace of neoliberal economics is associated with uneven geographical development in which some regions have advanced at the cost of others. National, state and local governments are locked into a process of attracting investment in competition with each other. That earlier work by Harvey (2006: 344, 415-6) refers to a neoliberal state driving accumulation by dispossession, a process that involves the commodification and privatisation of land through the medium of credit. For Harvey (2003: 115), the processes of capitalism must be understood

in relation to both space and time. The credit industry provides a 'spatio-temporal fix', or escape route from crises of over-accumulation of capital. Enormous amounts of capital can be taken out of circulation and placed in long term, fixed capital investments, predominantly in physical infrastructure where the financial returns to investors might be realised over many years. Such investments are backed by credit and commonly represent the capitalisation of property unsupported by a commodity transaction (Harvey 2003: 109-116). These investments represent marketable claims to a share in future surplus value production. Hence such investments must pay for themselves with interest to keep capital accumulating. The 'spatio-temporal fix' has to ensure that the placement of capital in fixed investments can accrue future surpluses that can be absorbed without loss over time (Harvey, 2006: 429-35). However, as the recent global financial crisis suggests, there are no guarantees that businesses in the financial sector will make long-term investments that are rational. A defining characteristic of neoliberal economics has been the deregulation of the financial sector. A financial sector granted wide autonomy by governments essentially has a licence to gamble using fictitious capital, permitting credit for risky investments that over time can go wrong (Harvey, 2010: 17). When the investments do go wrong a return to profits is achieved by demanding state bailouts, the degradation of productive capacity and the abandonment and devaluation of assets.

The risks inherent in this process are particularly evident at the regional level in federal systems of government. This is the case in Australia where State governments are struggling to find responses to economic crises that are largely outside of their control. Australian State governments have little influence over the policy levers affecting the national economy, which are available only to the Australian government. The Australian government has responsibility for matters such as employment, inflation and interest rates, whereas State Governments have significant control over the price and use of land. Local governments, the third tier of government in Australia, have responsibility for urban planning but derive their mandate from State government legislation, which can be modified by State governments to address changing policy agendas (Berry and Dalton, 2004). To shore up faltering regional economies, State governments are shifting the focus of urban regulation from a concern with social and environmental outcomes to the facilitation of private investment and profit, and the augmentation of State revenues. This process seems likely to accelerate as State

governments seek to restore state revenue bases damaged by the global economic crisis and facilitate private capital accumulation by investors damaged by failing financial markets. Nevertheless, State governments are unlikely to adopt a unified strategy. As Larner (2005) suggests, neoliberal responses to the current economic crisis might be thought of as evolving strategies contingent on local context but driven by an underlying faith in market mechanisms.

Urban renewal projects undertaken as private-public partnerships afford particular opportunities for governments to change land use policies to make urban spaces more valuable to developers and investors. Increasing cooperation with private companies necessitated by public-private partnerships changes the role of the state with implications for the legitimacy of the planning process. Local governments in Australia have traditionally acted as mediators between market actors and the community. Mediation requires acceptance of the legitimacy of the mediator by competing stakeholders. Planning for land use in Australia has derived its legitimacy from the election of councillors by local communities. Councillors set policy directions in consultation with urban planners and other professionals who are also tasked with implementing planning decisions. In this sense, councillors are meant to represent the interests of their electors in regard to how land will be used in their communities. Hence planning for land use is anchored in the democratic legitimacy of elected members acting in concert with planning professionals. The latter bring functional legitimacy to the process by virtue of their qualifications and expertise. Land use planning in Australia has also required a degree of coordination with the private sector and between layers of government to improve the built and social environments of communities in accordance with community consultation, civic culture and everyday interactions (Hutchings and Bunker, 1986).

A study by Benz and Papadopoulos (2006) suggests that state participation in public-private partnerships to develop land and property in developed countries such as Australia weakens institutional frameworks and places policy actors in tension with each other across layers of government. Tensions are perhaps most evident where regional or state governments seek to foster partnerships with private developers without meaningful consultation with local communities and local governments. Public-private partnerships require private actors associated with land development corporations to be brought into the

central decision making process to a significantly greater extent than was the case in the past. The inclusion of developers in the central decision making process changes the basis of legitimacy. Private actors have neither democratic legitimacy conferred through election to office, nor functional legitimacy through the possession of expertise, albeit individual actors may hold appropriate qualifications, employ urban planning professionals in their firms, or offer support to candidates seeking election to office. While private developers might be in favour of cooperation between local government and grass-root communities to address varying local issues, including those referring to social and environmental concerns, their principal concern must necessarily be with profit and the interests of their shareholders. The tension between capitalist businesses' primary focus on profits and broader social concerns is a familiar theme in political economy. Milton Friedman (1970) famously sought to set it aside with his claim that social responsibility is to pursue profits. However it is evident that the focus of business on profits sometimes brings it into tension with the sustainability of communities, broadly defined by Chiu (2003: 245) as 'maintenance and improvement of well-being of current and future generations'. Less well understood is the changing role of urban regulation in mediating this process at a regional and local level in relation to the political economy of place.

Later in this article we will illustrate the changing role of urban regulation in a regional context by considering a case study of Newport Quays, a major urban renewal project in Port Adelaide, South Australia. Rich examination of a case shows the changing role of regulation in the context of South Australia's system of urban planning. Our interest here is in illustrating the contradictions in the development process and in observing the impact of neoliberal modes of land use policy on urban social sustainability. Following Harvey (2006), we are exploring a political economy of place that addresses the accumulation of capital by dispossession, a process involving the commodification and privatisation of land through active state intervention on behalf of investors and property owners. We wish to explore why the state sometimes fails to deliver for investors and advance state interests relational to other actors in the process. Our aim is to offer a sharpened understanding of why the case happened as it did. In this sense, Newport Quays is offered as a critical case that illustrates the issues associated with urban renewal projects driven by neoliberal models of urban regulation at a regional

level. Following Yin (2009), a critical case can be defined as having strategic importance in relation to a general problem or issue. The issue here is the legitimacy of the planning process and the impact of a neoliberal model of urban regulation on communities and other layers of government.

Urban Governance and Sustainability

It is generally agreed in the literature on sustainability that the main dimensions of the phenomena are the economy, the environment and society, and that they are related to each other in some manner (Macintosh and Wilkinson, 2006; Davidson, 2010). King (2008) and Littig and Griessler (2005) suggest that social sustainability means the satisfaction of basic human needs, the continual reproduction of humans and the subsequent continuation of culture. Social sustainability might extend further than the consideration of basic needs, culture, well-being and the reproduction of humanity. McKenzie (2004: 120) defines social sustainability as 'a life-enhancing condition within communities, and a process within communities that can achieve that condition'. According to McKenzie (2004), the condition incorporates equity of access to key services (including health, education, transport, housing and recreation), as well as equity between generations, meaning that future generations will not be disadvantaged by the activities of the current generation. In this understanding, social sustainability is a system of cultural relations in which the positive aspects of disparate cultures are valued and promoted and there is widespread political participation of citizens not only in electoral procedures but also in other areas of political activity, particularly at a local level. Therefore, McKenzie (2004) argues that social sustainability is about accessibility, intergenerational equity and continuation of culture. Similarly, Chiu (2003) suggests that social sustainability relates to social norms and conditions in that any environmental or economic decision must not exceed the community's tolerance for change.

Hence, good urban governance practices should develop cooperation between local government and grass-roots communities, subject to the characteristics of varying local issues, including environmental concerns (Enyedi, 2002). Access to green space, a key concern of local communities, is known to enhance their psychological well-being, as

Oktay (2004) suggests. There is also evidence that maintaining urban heritage buildings and environments contributes to the well-being and enjoyment of future generations. The maintenance of heritage buildings provides indications of changes over time and the imprint on the urban fabric left by former generations (Davidson and Wilson, 2009). Such processes are held to help populations to identify who they are and 'what we do and how we lived in the past' as Chan and Lee (2008: 247) argue. Hence the quality of a city might be evaluated by its public space and whether such space reflects public life, civic culture and everyday interactions. Public space is significantly affected by urban planning regulations and building codes.

Regulation of the Urban Environment

Harvey (2010) and Brenner (2006) note that state regulation of the urban environment has been profoundly reconfigured over the past thirty years by the dominance of neoliberalism in most western countries. The increasing globalisation of financial services and of financial markets has affected the capacity of nation-states and regions to protect themselves from the world economy. Intensified competition between states, cities and regions has caused state and local governments to assume direct roles in promoting capital accumulation on sub-national scales (Kipfler and Keil, 2002).

In Australia and other western countries, governments have pushed institutional transformation under the rubric of deregulation. This has involved the partial dismantling of social and economic regulation at the national and regional levels in favour of weak governance regimes that focus on setting the rules of exchange rather than setting standards (Peck and Theodore, 2007). A study by Peck and Tickell (2002: 731) suggests that there has been a shift to a new form of state intervention, which they refer to as 'roll-out neoliberalism' arguing that the neoliberal project has dismantled state institutions to a point where deregulatory marketization has begun to produce adverse distributional consequences. Realisation of the limits to deregulation has driven a new form of neoliberalism, according to Peck and Tickell (2002), which creates new modes of regulation to replace those dismantled. In this model, governments overtly favour state intervention and public spending provided it supports macro-economic management and the accumulation of capital.

Likewise, studies of urban planning in Australia by Gleeson and Low (2000), and more recently by Gleeson (2010) suggest that a process of re-regulation tends to consistently follow periods of neoliberal restructuring as governments seek to address excess consumption associated with neoliberalism. Consumption in the land market is regularly encouraged by the state as a means of inflating local economies, but with negative distributional consequences that seem to constantly recur but avoid of serious political challenge.

More recently, Peck and Theodore (2007) have called for engagement with the concept of 'variegated capitalism', which represents a more nuanced understanding of the national-domestic variants of the processes of capitalism and neoliberalism than that provided by the 'varieties of capitalism' approach or the concept of 'roll out neoliberalism'. Like Harvey (2010, 2006, 2003), Peck and Theodore (2007) are interested in the temporality and spatiality of uneven capitalist development through analyses of local and spatially diverse capitalist formations. Capitalism in this understanding is viewed as singular but nonetheless dynamic and polymorphic. The focus is on understanding factors endogenous to local and regional economies in relation to wider national and global economic formations.

Deeg and Jackson (2007) argue that the current permutations in the neoliberal agenda are not about a return to a *laissez faire* free market model. Because markets are persistently at risk of failure they must depend on non-market regulatory frameworks for protection. That is, while the market continues to be rhetorically positioned as the supreme coordinating mechanism by economists and politicians in accordance with orthodoxy, it is understood that private actors in the market will seek protection from market failure within various institutional frameworks and regulations at national and sub-national levels and that providing such protection is a legitimate function of government (Deeg and Jackson, 2007).

Planning regulations inevitably place constraints on the operations of markets in relation to broadly defined community interests. For example, regulations on block sizes and urban density constrain increased residential densities in the inner areas of metropolitan regions. Such regulations might also influence the nature of housing construction in terms of the materials used, the height of buildings and other matters related to safety and amenity that have an impact on the cost of

construction (Berry and Dalton, 2004). Urban and regional planners working in regional and local governments have a significant role in the framing of urban regulation, and discretion in mediating how regulation is interpreted in the field.

Hence planning and planners have been seen as arbiters of interests. As Sager (1994: 145) notes:

Compromise and conflict resolution are the everyday experience of the planner. What else are we doing but working out and advancing proposals, taking account of competing interests so that something may be done in practice which furthers the public interest.

‘The public interest’ is, of course, an elastic concept. When there is unanimity about what is in the public interest decisions are straightforward, but when there is disagreement some mediation of preferences has to take place (Sager, 1994). However, a mediated position is difficult to achieve when interests conflict. How the process is mediated affects the benefits that will accrue to one interest group or another. It is evident that in the current context there is an overt tendency by regulators to privilege capital accumulation and associated interests over other concerns with reference to public fears of an economic recession.

Such fears facilitate a model of urban regulation that shifts to the facilitation of private investment and profit. The regulation of urban space moves from a focus on urban density, the provision of infrastructure and social and environmental concerns to making space more valuable to developers and investors through urban renewal projects, improving quality of life in the immediate environs of a development and a highly qualified commitment to the sustainable management of environmental resources to secure economic survival (Brenner and Keil, 2006). The nature of the latter commitment is underscored by the marketing of urban densification projects as having environmental benefits by limiting sprawl (Wilson and Davidson, 2010). A discourse on saving the environment by way of urban consolidation provides space for State governments to address tensions between developers, communities and other constituencies by representing a neoliberal policy on land use as being in the interests of the environment, and hence society. The main concern here, however, is not with

preserving the environment or social equity but with addressing threats to the health of local economies, and hence to the interests of investors.

Counter currents can emerge in response to political pressures driven by social considerations. An example is the recent decision of the South Australian government to reverse the sale of the Parks Community Centre and associated land (hereafter referred to as the Parks) to developers for housing construction. The Parks was established by the S.A. Government led by Premier Don Dunstan in the 1970s to provide community services to the north western suburbs of Adelaide. Then as now, this is one of the most disadvantaged urban areas in the nation, despite the establishment of significant urban renewal programs. The Parks occupies approximately 14 hectares of land and accommodates a sport and fitness centre, a public swimming pool, a library, theatres, and an arts and crafts area providing youth, children's and community programs. The Parks is home to community organisations providing services to the vulnerable, and hosts more than 50 sports and community clubs. The closure of the Parks and sale of the land was recommended by the S.A. Government's Sustainable Budget Commission in early 2010. It was said that it would save \$17 million as part of a raft of measures to address a budget deficit and the need to find more than \$450 million to redevelop the Adelaide Cricket Oval, the Adelaide Convention Centre and other capital investment projects (Sustainable Budget Commission, 2010). The Adelaide Cricket Oval development was a key recommendation of the Property Council's 'Adelaide 2036: Building on Light's Vision' report (Property Council, 2009). The S.A. Labor Government announced the sale of the Parks in the State Budget on 16 September 2010 to the evident dismay of community service agencies, sports associations, community clubs and other stakeholders, including the Port Adelaide and Enfield Council (Etheridge, 2010). The announcement of the sale triggered a powerful community backlash, drawing resistance from stakeholders in the Parks. The sale of the Parks became the subject of a media campaign to reverse the decision. On 4 October 2010, the S.A. Premier Mike Rann released a two sentence statement on Twitter, which said 'Reports that the Parks Centre has already been sold are completely false. The Parks will NOT be closed'.

It is clear that the relative exclusion of non-economic concerns from the regulation of urban space opens tensions between developers and communities and between state governments and other layers of government. Counter currents in favour of social considerations, as in

the case of the Parks, are oppositional to powerful vested interests. Logan and Molotch (2007) suggest that conflict between local communities and developers can be conceived of as a tension between the use value attached to a place by the communities that interact with it as part of their daily lives and the exchange value of making money from the land. Use value in this sense refers to cultural ties, the sense of place that might be attached to iconic heritage buildings and organic ties to community and neighbourhood. Logan and Molotch (2007) refer to a 'growth machine' comprised of entrepreneurs and institutional players who make their living from the city, an interlocking collection of organizations that include pro-growth developers and investors but also politicians whose interests align with capitalists seeking a profit from changes to land use.

Changes to land use frequently take the form of urban regeneration projects in lower income neighbourhoods, which seek to transform dilapidated areas into upscale, mixed use developments, comprising dwellings, shops, restaurants, fashion boutiques and the like, in Logan and Molotch's (2007) account. Such neighbourhoods have often become dilapidated over time as a consequence of economic or social changes associated with deindustrialization. Use value is lowered as buildings crumble, businesses move out and streets become less safe. Hence there is often broad political support from local communities and/or minimal resistance to the redevelopment of such neighbourhoods, although this is not always the case. Land is generally cheaper in low income neighbourhoods, thereby enabling greater profit from redevelopment.

However, the inconvenient presence of lower income people in such neighbourhoods presents a problem for developers. Such persons threaten exchange value because they are unlikely to be able to afford to buy or rent the new dwellings that are pitched to the high end of the market. They are less likely to be able to afford to shop regularly in upmarket retail development. In this sense, urban renewal projects often involve the exclusion both culturally and physically of lower income earners from redeveloped neighbourhoods (Oakley, 2005).

Urban Renewal and Newport Quays

Newport Quays is a \$2 billion marina development on Adelaide's Port River. It is constructed on a former industrial, brownfield site, adjacent

to a train station. Newport Quays is a medium to high density development of 442 apartments and associated villas. The development is in proximity to the commercial heart of the City of Port Adelaide, an industrial seaport, surrounded by working class suburbs. The Port, as it is known in South Australia, was once Australia's third largest seaport but has experienced deindustrialization and significant economic decline since the 1960s. The Port has long been stigmatised in the Adelaide media as a disreputable place, the abode of seamen, wharf labourers, roughnecks and the unemployed. The landscape of the Port is characterised by docks devoid of shipping and a commercial centre with many closed shops and hotels (Oakley 2005, 2007). Nevertheless, the area has attractions for developers. Despite a long decline, and a less than salubrious town centre, the Port maintains a pleasant shopping strip along Semaphore Road and is close to white sand beach suburbs favoured by affluent home buyers. The district also contains many historic buildings listed by Australia's National Trust as worthy of protection under heritage legislation.

The Port and its environs have long been the target of urban renewal projects by the South Australian government. Urban renewal is a means for governments to create value within a region. Under Australia's federal system of government, State governments have significant control over the supply of land and the regulation of land use. The latter is affected by the rules and effectiveness of the land use planning system, established through State government legislation and implemented by local government (Berry and Dalton, 2004). The State can expand land supply to meet rising urban housing demands by the rezoning of either greenfield or brownfield sites or by removing or lowering restrictions on urban density.

The South Australian government began to expand its involvement in the urban land development market from 1973 by acquiring land for future development and then releasing this land for development in a controlled manner to provide a guaranteed supply of land to property developers. More recently, it has entered formal partnerships with the private sector for major property developments and established an urban growth boundary around the Adelaide metropolitan area, which is periodically adjusted to allow for urban expansion. The effect of such policies has been to drive up the price of land and hence the cost of housing to home buyers (Forster, 2006). Rising land prices contribute significantly to State revenue in South Australia through the collection of stamp duties

on the sale of properties, which are assessed as a percentage of the sale price.

The South Australian Land Management Corporation (LMC) was established in 1997 under the Public Corporations Act to manage urban land use policy. The LMC is a statutory corporation with legal authority independent of the Minister responsible, thereby giving it some autonomy in its dealings in the urban land development market (Bailey, 2000). The LMC's role is diverse and involves releasing land to the development industry for residential and industrial development; facilitating urban renewal and regeneration; and assisting the South Australian Government on strategic land and real estate issues (LMC, 2006).

In June 2001, the LMC advertised for registrations of interest for the redevelopment of the Port Adelaide waterfront. During 2002-3 a public consultation process was undertaken regarding the development proposal, while the LMC and the Newport Quays Consortium of private developers were involved in negotiations to finalise the development agreement (Auditor General, 2007).

In September 2002, the consultancy group Hassell (2002) undertook a community consultation on behalf of the LMC. One hundred and ninety people participated in the consultation. There was general support for the redevelopment, especially since it was believed it would create jobs and bring economic benefits. However, concerns were expressed regarding the social mix that would result from the nature of the development, and how the proposed high density development would integrate with the existing, low density surrounding residential areas. It was suggested that the development might become a 'gated community' for a privileged minority, relatively separated by its design from the working class suburbs surrounding it. Moreover, the surrounding community placed importance on the retention of the Sailing Club and tug boats within the inner harbour, as well as retaining the working boat yards and slipways (Port Urban Design Review Panel, 2002). There was an evident community concern that the heritage value and culture of Port Adelaide, as well as its urban environment, might be lost.

In September 2004 the State government of South Australia announced that a contract had been signed with the Newport Quays consortium to develop land under the ownership of the Land Management Corporation (LMC) located around the Port Adelaide waterfront (Auditor General,

2007). Newport Quays was to be pitched to the top end of the housing market and was exempted from State legislation requiring all new housing developments to include 15 per cent affordable dwellings. The exemption of Newport Quays from the requirement to provide a proportion of the dwellings as affordable housing effectively excluded most of the residents from the surrounding suburbs from buying into the development (Oakley, 2007).

The deal was announced by a Labor government. The Australian Labor Party been in office in South Australia for thirty of the past forty years. While nominally a social democratic party with links to the Second International and having an industrial base in the trade union movement, the party also has a close relationship with the property development lobby. In South Australia this is through S.A. Progressive Business Inc., Labor's corporate fund raising organisation. Major developers dominate the companies that contribute to S.A. Progressive Business Inc. Thirteen companies involved in Adelaide development projects paid to host functions with the State Premier and Ministers in 2008, compared with three mining companies, two retailers, seven financial-sector companies and three law firms (Kemp, 2009). When the CEO of a major property development company was asked on ABC radio if his firm expected favours in return for donations of more than \$180,000 to the South Australian Labor Party in 2005-06, the response was reported as: 'We have got business interests...we want to make our projects happen, that's for sure, but, you know, that's a part of the way the system – you know, politics – works here.' (Gout, 2009: 1).

The Development of Newport Quays

The announcement of the Newport Quays development was made on the same day that a Ministerial Plan Amendment Review (PAR) was passed through the South Australian Parliament. The PAR amended the Port Centre Zone within the City of Port Adelaide Enfield Development Plan to include additional Policy Areas that could have desired high density apartment buildings. In addition to these events, Schedule 10 of the Development Regulations was amended on 30 September 2004, requiring all development applications within the newly adopted Port Centre Policy Areas to be assessed by the Development Assessment Commission as the relevant authority (Government Gazette, 2004). This

amendment classified Newport Quays as having 'major project status', thus effectively removing development assessment from the Port Adelaide Enfield Council and vesting it in the State planning department. A Port Waterfront Redevelopment Committee of five persons was appointed by the Minister to determine development applications and report on Crown Developments (Development Assessment Commission, 2005). The role of the Committee was stated to be 'not one of mediator or arbitrator for parties expressing divergent views but is a decision maker charged with the responsibility of each proposal against the Development Plan policies' (Development Assessment Commission, 2007: 2).

The South Australian Government had released the PAR for comment in mid-2003. Oakley (2005) notes that 45 written submissions were made by a range of stakeholders, including local businesses, residents, heritage groups, and environmentalists and the Port Adelaide and Enfield Council. Many submissions expressed concern over the nature and scale of the development and its impact on the heritage of the Port. The amendments to planning legislation by the South Australian Government coincided with the Port Adelaide based Australian Submarine Corporation (ASC) being handed a \$6 billion Navy Contract by the Federal Government in May 2005 (Carbonell, 2005). The project, along with others like it, is bringing high income professionals requiring housing into the region.

It is noteworthy that, as there is no action of sale during a PAR review, and as community interest swells with expectation, potential land value tends to increase through market speculation. The regulatory process adds to the time taken to bring rezoned land into use, reducing the short term responsiveness of supply to immediate demand pressures. Short term price inelasticity of supply tends to push up housing prices and contribute to a speculative upward inflationary spiral in real estate values, especially in desirable waterside locations (Berry and Dalton, 2004). The Newport Quays project was seemingly designed to ensure a high supply of housing at a time when market speculation and employment opportunities were high, resulting in higher land value. It was also intended to construct dwellings that would provide a positive financial return to the State through stamp duties, albeit the principal concern seems to have been to facilitate returns for private capital. By the process of assembling land at market value and providing it to developers at lower assessed prices, the State would bear the cost of the

last stages of capital devalorization. It was hoped that this would ensure that developers receive high returns without which the redevelopment would not occur (Berry and Dalton, 2004). In this sense the project was expected to bring profits to the developers whilst shoring up State revenues.

While Newport Quays had the support of the LMC and by proxy the South Australian government, tensions emerged with the Port Adelaide and Enfield Council, the National Trust and significant sections of the local community. The PAR amendment to the Development Plan created Policy Areas 34A, 34B, 34C, 34D and 34E (Government Gazette 2004). The new Policy Areas were to be located on the western side of the Port River consisting of vacant land to the southern end, and boat building sheds of historic significance to the northern end. These were the same sheds identified within the Hassell consultation report by members of the community as being iconic/culturally significant to the Port Adelaide locality (Hassell, 2002).

Both the Desired Character Statements and various Objectives and Principles of Development Control within the Development Plan reflect what was expressed within the Port Adelaide Waterfront Revitalisation Guidelines published by Newport Quays Consortium in February 2004, six months prior to the Ministerial PAR being passed through parliament on 22 September 2004. Such design guidelines are relevant to building height and density provisions within those Policy Areas established under the Development Plan. The Principle of Development Control 47 within the Port Centre Zone states: 'Development should be staged to provide for the orderly redevelopment of the waterfront Policy Areas, particularly Policy Areas 34A, 34B, 34C, 34D, and 34E' (Development Plan 2008: 144). Although this principle is advised under the category of 'orderly development', it actually allows each of the above discussed Policy Areas to be designated as pending market interest. One likely outcome of this designation is that expectations of future prices will be formed based on how market forces, demand and supply, impact on the market (Malpezzi and Watcher, 2005).

The scenario of development intensity derived by market interest would not have been the case should the development have been constructed under one development application. In the interest of removing real estate market speculation, the entire Port Waterfront development would have to fall under one application to ensure that considerations such as

heritage, public open space and car parking were accounted for accordingly. However, market forces appear to have determined the intensity of development, with the State Government acting as a willing agent, in the process causing conflict between the developers, the Port Adelaide and Enfield Council and members of the surrounding communities.

The South Australian government has also allowed an application by the Newport Quays private consortium to rename waterfront land in the historic suburbs of Ethelton, Glanville and Birkenhead, as 'New Port'. The consortium believed that the existing names of these suburbs would make it hard to market the development. Despite opposition by community groups and the Port Adelaide Enfield Council who wished to retain the existing names of the neighbourhoods, the suburb of 'New Port' was created in July 2007 (Conlon, 2007). Affected residents were hence required to change their addresses on bank accounts, titles, licences and other documents to refer to 'New Port' instead of using the original names of their suburbs.

Moreover, in July 2007 reports were leaked to the media suggesting that up to six, 12-storey buildings were proposed by the Newport Quays consortium for new stages of the development. The consortium later lodged its proposal for Stage 2B. The stage included three 12-storey buildings in an area where the Port Adelaide Enfield Council argued was only intended to be three and seven storeys. An assessment commissioned by the Port Adelaide Enfield Council found multiple problems with the design of stage 2B. The development was considered to be environmentally unfriendly, not sympathetic to the local heritage, and did not meet public safety standards. The assessment also found private marina berths would limit public access to the waterfront and that public spaces were designed to be uninviting to visitors (Henderson, 2007). The proposal attracted strong criticism from the National Trust over the loss of historic boatyards and heritage buildings. Port Adelaide Enfield Council was threatened in September 2007 with legal action by the Newport Quays consortium over its objections to the development. Moreover, the owners of the historic Jenkins St boatyard told a parliamentary inquiry in late 2007 they had been bullied into leaving their Port waterfront properties by the Land Management Corporation. The Port Adelaide Sailing Club, which had been based at the Port for 110 years, was required to leave its inner harbour home in August 2007 to make way for the Newport Quays development (Westthorp, 2008). The

parliamentary inquiry also heard allegations raised by the Auditor-General that the LMC had pulled an open tender in order to award a contract to the Newport Quays consortium in ways that were not transparent, nor accountable (Auditor General, 2007).

Mounting problems with the development became evident in late 2008 when stage 2B of the \$2 billion development was refused by the Port Waterfront Redevelopment Committee after the release of Auditor General's report and the parliamentary inquiry. The Committee, which had been appointed by the State government to manage the development assessment process for the project, found the third stage of the project exceeded building heights, overshadowed public areas and lacked open space, largely concurring with objections raised by the Port Adelaide Enfield Council a year before (Andruchowycz, 2008).

While Newport Quays has generated limited tax revenues it has not been a commercial success, in part for reasons associated with the development process pursued by the State government and the private consortium. The development has allowed the construction of apartments with bedrooms without windows and three story villas without elevators. The site of the development is on contaminated industrial land, some of which has yet to be remediated. In September 2008 dust from the Newport Quays development site was blown onto the nearby LeFevre Primary School, causing the school children to be evacuated when it was found the dust contained benzo(a)pyrene, a carcinogenic compound (ABC, 2008). About 18,000 cubic metres of soil is stored near Newport Quays by the LMC (ABC, 2009a). Units in the development initially marketed at \$670,000 in 2007 were selling for around \$370,000 in 2009. The Port Adelaide Enfield Council estimated in 2008 that only about a third of apartments and about half of the villas were regularly occupied a year after residents first moved in (i.e. over 300 apartments were not regularly occupied). Local people have described the development as a ghost town with few lights on at night and very few garbage bins left out on collection day (Todd, 2008). A major South Australian development company involved in the Newport Quays project was placed in receivership in March 2009, with debts of more than \$11.5 million. Other developers in the project were sued in the Federal Court by private investors in stage 2A of the project who, it is alleged, were led to believe that the price of their properties would increase significantly above normal market expectations for the area (ABC, 2009b).

Contradictions in the New Model of Urban Regulation

The story of Newport Quays illustrates the tensions thrown up by changes to land use arising from new modes of urban regulation that overtly favour market outcomes over community concerns. Traditional urban regulatory frameworks that have sought to moderate conflicting interests over development outcomes are now almost obsolete in South Australia. The purpose of urban regulation at the regional level deployed in the current context is the overt prioritisation of capital accumulation. This variant of urban regulation acts to distribute resources to investors and developers by dispossessing communities of property and amenity and providing a spatio-temporal fix for the investment of over-accumulated capital. This is what Harvey (2006) calls accumulation by dispossession, operating at a local, sub-urban scale under the auspices of a State government.

As regulation is diverted from traditional metropolitan planning concerns with density, infrastructure, social equity and environmental concerns to the overt support of private interests, albeit accompanied by qualified appeals to urban sustainability to market the process, the role of the regulator also moves from a moderator of diverse community interests to a facilitator of private profit. In the Newport Quays development, state agency has been deployed to ensure that the development achieves maximum exchange value with seemingly less concern for the use value for the local community. This process has been accompanied by changes to the regulatory framework to circumvent dissent with the process and maximise the value of the properties being brought onto the market.

The regulatory process established for Newport Quays development at its inception seemed likely to produce a short term price inelasticity of supply, which might have been expected to push up housing prices. The actions of state agencies were seemingly designed to ensure that Newport Quays dwellings commanded a high price in the market and provided a positive financial return to the South Australian Government through the tax system. The development came online at the height of a mining and property boom when investors were seeking a 'spatio-temporal fix', as discussed by Harvey (2006, 2003), a place to park accumulated capital in a large scale land development where the hoped for financial returns from property speculation might generate future surpluses. The investments were backed by credit and had to pay for themselves with

interest to keep capital accumulating. The development also required significant intervention by the State government to over-ride local planning authorities and other interventions that seemed designed to maximise the return to private investors at the expense of the local community. Private investors were encouraged by the State to gamble on claims to a share in future surplus value production, which failed to materialise as the market turned down, with significant consequences for the investors, the state and the local community. Rather than acting as a moderator of diverse interests, the role of the State in the planning process for Newport Quays was more akin to that of a croupier. The commercial failure of the development has diminished the financial return to the State, sent a major developer bankrupt and damaged the business interests of investors. The process must raise questions about the effectiveness of this model of regulation in achieving its intended aim.

It is also clear that the power of a State government to foster economic development at the expense of social and environmental concerns has constraints. Despite amendments to the South Australian Development Act to smooth the path for Newport Quays to proceed, opposition from Port Adelaide Enfield Council, the National Trust and significant sections of the local community have forced the State government's own development assessment committee to compel the private consortium to review its development plans for the latter stages of the project. Other actors have operated reflexively within structural contexts in ways that have placed limits on the capacity of the State to advance its interest and those of the actors that it has sought to privilege. There are evident limits to how far regional governments can overtly favour private development interests without alienating communities and institutions that are capable of offering significant resistance.

The case of Newport Quays raises questions about the policy effectiveness of a regime that unabashedly places urban planning at the service of capital at the expense of other constituencies, including other layers of government. It is clearly attractive to the State to raise property values in regional locations through the strategic release of land and manipulation of the regulatory framework since that tends to increase tax revenues. However, this approach does not always achieve its goals and, even when successfully implemented, contributes to inflationary spirals in housing prices. The latter are creating significant social and economic problems in other areas of the economy. The policy process followed in

the development of Newport Quays and similar developments places the South Australian government in opposition to the Australian government's policies on inflation and affordable housing, in tension with the South Australian government's own concerns in this area, and with local government, heritage groups and affected communities. Moreover, the participation of citizens in the decision making process in this case has been deliberately constrained by the actions of the State, and local cultural concerns have been largely ignored. It seems evident that the process followed has produced an urban development of questionable economic viability and also one that has violated the social norms and conditions of social and environmental sustainability.

The inherent contradictions that are evident in this case also raise questions about the legitimacy of the model of regulation that has been followed. State governments tend to be attracted to championing the interests of developers in land use planning in the belief that such assistance will deliver economic benefits, even if this is at the expense of social and environmental concerns. Such imperatives become sharper in times of economic crisis, which regional and state governments have only limited capacity to address. It is clear, however, that such policies at the regional level do not necessarily deliver economic benefits and may deliver a host of negative externalities that significantly undermine the legitimacy of the urban planning process. In this sense such policies not only lack utility but functional legitimacy and, in the case of Newport Quays, clearly lack democratic consent. Failure to obtain consent appears to have mobilised opposition from a range of actors in other layers of government and sections of the community in ways that have derailed the intended outcome of the project. The commercial failure of the development suggests that a narrow strategy of abandoning the mediatory role of urban planning to advance the interests of economic actors might be expected to alienate other actors to the extent that the process becomes self-defeating.

Conclusion

If the quality of a city is evaluated by whether its public space reflects public life and social aspirations, then the case history of urban projects like Newport Quays has troublesome implications. At the regional level in South Australia our civic culture seems to be characterised by an increasingly illegitimate State planning process that champions private

interests over the social and environmental sustainability of local communities. This process also seems to fail to consistently deliver economic benefits, thus undermining its principal advantage from the perspective of governments attracted to this model of planning. Our analysis suggests that governments seeking regional economic advantage might wish to look for alternatives to fostering capital accumulation through inflating the land market. The superficial attraction of using urban planning processes in pursuit of high financial returns can have serious social, economic and environmental consequences for local and regional communities when the gamble fails to pay off.

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