

# Urban redevelopment and regulation: the case of Newport Quays

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## Abstract

Current tendencies in regulation theory suggest that neoliberal regulation is not a monolithic paradigm but is uneven, overlapping and contradictory. It is argued that state planning practices involving the overt valorisation of land in the interests of developers are symptomatic of uneven variations in neoliberal regulatory frameworks. Such practices create destabilising tensions, which threaten the viability of the project at the regional level. The planning of the Newport Quays redevelopment at Port Adelaide is a case in point. It is argued that planning for the redevelopment has placed the interests of the South Australian Government and the developers in tension with Local Government, heritage groups, sections of the community and with new Commonwealth policy concerns. We question whether a State regulatory regime significantly at odds with other levels of government and the community is sustainable in the long term.

## Introduction

For much of the twentieth century Port Adelaide in South Australia was Australia's third largest port and a significant centre of commerce and industry. Since the late 1960's shipping activity has declined through containerisation. Other industries traditionally associated with Port Adelaide have also declined as a consequence of economic restructuring (Oakley 2005). While retaining many heritage buildings and its working class, maritime character, the Port as it is known to local residents has become a landscape dominated by empty warehouses, closed pubs and under-utilised shops. Nevertheless significant new developments are underway.

Much of the land around the Port Adelaide waterfront is under the ownership of the State Government and is subject to major urban renewal projects. Currently more than \$1 billion worth of infrastructure works are in progress in the Port Adelaide

region. A \$6 billion air warfare destroyer contract is producing new jobs at the Australian Submarine Corporation site further up the Port River and \$178 million opening road and rail bridges over the Port River are in the process of completion. The road bridge will divert heavy trucks from the Port Centre. A \$24 million marina is being built at Largs North, which will house the Port Adelaide Sailing Club - relocated from the inner harbour (Advertiser Newspaper 01/02/07).

The Port is also the site of the controversial Newport Quays waterfront residential development. The development has sparked tensions between the developers and the South Australian Government on one hand and the Port Adelaide Enfield Council, local residents and the National Trust on the other over the planning process.

This paper discusses the debate over Newport Quays through the lens of regulation theory. We examine the neoliberal regulatory framework that has underpinned the development and draw lessons for urban policy and regional planning.

### **Regulation theory**

Regulation theory concerns the forms of social regulation required for the reproduction of capitalist accumulation. Regulation theory has moved from Aglietta's (1979) meta-concern with the international transformations of advanced capitalist societies in response to economic crises to more localised understandings of the role of government, the regulatory process and its relationship to capital accumulation (McGuirk 2004). The focus is now on the spatialised nature of capitalist regulation. The power of the state is understood as scaled, spatially dispersed and uneven in its application of regulation (McGuirk 2005, Brenner 2004). In this sense regulation can be expected to vary in relation to the differing forms of capitalism that are held to exist in Europe, the USA and Asia (Jessop 2006, Deeg and Jackson 2007). This

understanding is sometimes referred to as describing variegated capitalism (Peck and Theodore 2007).

In this context, Brenner (in Brenner and Keil 2006) notes that state regulation of the urban environment has been profoundly reconfigured over the past thirty years. The increasing globalisation of financial flows has affected the capacity of nation-states and regions to insulate 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 (Kipfer and Keil 2002).

In Australia and other Western countries, governments responded to the crisis of Fordism in the 1980s and 1990s with a neoliberal agenda of tariff cuts and privatisation. More recently the neoliberal project has engaged in a process of institutional transformation under the rubric of 'deregulation'. This has involved the dismantling of social and economic regulation at the national and regional levels in favour of weak governance regimes that focus on the rules of exchange rather than setting standards (Peck and Theodore 2007). Peck and Tickell (2002) suggest we are witnessing a shift from 'roll-back' neoliberalism to 'roll-out neoliberalism'. The former involved dismantling state institutions to a point where deregulatory marketisation began to produce adverse distributional consequences for the market economy. Realisation of the limits to deregulation has driven a new roll-out neoliberalism, which creates new modes of regulation to replace those dismantled. Roll-out neoliberalism favours state intervention and public spending provided it supports macro-economic management (Peck and Tickell 2002).

As Boyer (1997) has observed the neoliberal agenda is not about a return to a laissez faire free market model. Markets remain persistently vulnerable to failure and

continue to depend critically on the non-market regulatory frameworks within which they are embedded. That is, while the market is positioned as the supreme coordinating mechanism in the neoliberal project, actors in the market continue to seek protection from market failure within various institutional frameworks (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 have significant discretion in mediating how regulation is interpreted in the field. In this context planning and planners have been seen as arbiters of interests. As Sager (1994, p145) 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 amalgamation of preferences has to take place before a choice can be made (Sager 2002). While the collective choice should be consistent and fair this is difficult to achieve when interests conflict. How the arbitration 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 in considerations of what is the public interest.

In the neoliberal model, regulation shifts from a concern with metropolitan planning to the facilitation of private investment and profit. The regulation of urban space moves its focus from 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 qualified ecological commitment to the sustainable management of environmental resources to secure economic survival (Brenner and Keil 2006, Kipfer and Keil 2002). The main concern here is not with social equity issues to do with access to housing and services but with labour shortages that threaten the health of local economies and the services provided to affluent communities. The exclusion of the concerns of non-economic actors from the regulation of space opens room for tensions between developers, communities and layers of government responding to different constituencies whose interests are in conflict with the neoliberal prioritisation of the market economy and private profit. This process can be considered to be a series of overlapping strategies that produce shifts in modes of regulation (McGuirk 2005).

### **Urban renewal in Port Adelaide**

Urban renewal is a means for Government to create value within a region. In Australia with its federal system of government, State Governments have a role to play in this process through the supply of land. 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 the rising urban housing demands by the rezoning of either greenfield or brownfield sites.

The South Australian Government in 1973 expanded its involvement in the urban land development market by acquiring land for future development, releasing this land for development in a consciously controlled manner, and more recently forgoing partnerships with the private sector in the development of urban environments. The Land Management Corporation (LMC) was established in 1997 under the Public Corporations Act, assuming a similar role to the previous South Australian Urban Projects Authority (SAUPA). The LMC, like the SAUPA before it, is a statutory corporation with legal authority independent of the Minister responsible, thereby giving it a greater degree of autonomy in its dealings in the urban land development market (Bailey 2000). 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 2002-03 a public consultation process was undertaken regarding the development proposal while the LMC and the Newport Quays Consortium 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 within the consultation. Overall there was general support for the redevelopment, and many people acknowledged the economic benefits of the development. 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 (The Port Urban Design

Review Panel 2002). Moreover the 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. It was evident that there was a clear community concern that the heritage value and culture of Port Adelaide might be lost through the Port Adelaide redevelopment.

In September 2004 the State Government of South Australia announced a deal 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**

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 desired high density apartment buildings. In addition to these events, Schedule 10 of the Development Regulations was amended 30 September 2004 requiring that all development applications within the newly adopted Port Centre Policy Areas were to be assessed by the Development Assessment Commission as the relevant authority (Government Gazette 2004).

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 amendment of planning legislation by the South Australian Government to expand land supply 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 expected to bring an influx of high income professionals into the region requiring housing.

As there is no action of sale during a PAR review, and as community interest swells with expectation, potential land value increases 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, Weber 2002). The Newport Quays redevelopment project will ensure that there will be a high supply of housing at a time when market speculation and employment opportunities are high, resulting in higher land value. It will also build dwellings that will provide a positive financial return to the State through land tax. By the process of assembling land at market value and providing it to developers at lower assessed prices the State also bears the cost of last stages of capital devalorisation. This process ensures that developers receive high returns without which the redevelopment would not occur (Weber 2002). In this sense the action of the LMC to provide the Newport Quays Consortium with the brownfield site at Port Adelaide seems likely to ensure that there will be a high supply of housing, at a time when market speculation and employment opportunities are high, resulting in

higher land value and number of dwellings that will provide a positive financial return to the State through land tax.

Whilst Newport Quays has the support of the LMC and by proxy the South Australian Government, tensions have emerged with the Port Adelaide and Enfield Council, the National Trust and sections of the community.

The PAR amendment to the Development Plan created Policy Areas 34A, 34B, 34C, 34D, and 34E (Government Gazette 2004). The new Policy Areas are to be located on the western side of the Port River consisting of vacant land to the southern end, and boat building sheds to the northern end. These were the same sheds identified within the Hassell (2002) consultation report by members of the community as being iconic/culturally significant to the Port Adelaide locality.

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 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.

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, actually impact on market prices (Malpezzi and Watcher 2005).

The scenario of development intensity derived by market interest would not have been the case should have the development 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 such urban design elements of heritage, public open space, car parking etc, would have been designed for accordingly. In the current case, market forces appear to be determining the intensity of development, driving conflict between the Developer and Local Government.

The South Australian Government has also allowed an application by the Newport Quays consortium to rename waterfront land at the historic suburbs of Ethelton, Glanville and Birkenhead, as New Port. Despite opposition by community groups and the Port Adelaide Enfield Council, the suburb of New Port was created in July 2007 (Conlon 2007).

Moreover, in July 2007 reports were leaked to the media suggesting 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 and presented to its development assessment panel, 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 public spaces

were designed to be uninviting to visitors (Henderson 2007). The proposal also 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 (Westthorp 2008). Moreover, the owners of the 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 also 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 2008).

## **Discussion**

The story of Newport Quays is illustrative of the tensions thrown up by the uneven reconfigurations of space and governance associated with the neoliberal project. Our case study suggests traditional regulatory frameworks at the regional level that have sought to moderate conflicting interests over development outcomes are almost obsolete. Regulation at least at the regional level seems increasingly deployed as a roll-out variant of neoliberalism with its purpose the prioritisation of sectoral economic outcomes over other planning concerns.

As regulation is diverted from metropolitan planning to the support of sectoral economic interests the role of the regulator moves from a moderator of diverse community interests to a facilitator of private profit. In the Newport Quays

development state resources have been deployed to ensure the development achieves maximum commercial success. 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 followed in the Newport Quays development seems likely to produce a short term price inelasticity of supply, which might be expected to push up housing prices. The actions of state agencies seem to have ensured that Newport Quays dwellings command a high price and will provide a positive financial return to the South Australian Government through land tax.

But it is also clear that the regulatory power of the state is uneven. Despite amendments to the State 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 consortium to review its development plans for the latter stages of the project. There are evident limits to how far a neoliberal agenda can be rolled out in regional and local planning without alienating communities and institutions serving different constituencies.

The case of Newport Quays also raises questions about the efficacy of a regional policy regime that unabashedly places regulation at the service of capital accumulation at the expense of other constituencies. While 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 it will increase tax revenues, the implementation of this policy contributes to inflationary spirals in housing prices. The latter are creating significant social and economic problems in other spheres of the economy. The policy process undertaken in the development of Newport Quays places the South Australian Government in opposition to Commonwealth policy on

inflation and affordable housing, with the South Australian Government's own concerns in this area, and with Local Government, heritage groups and affected communities. State urban redevelopment practices in South Australia are in tension not only with communities and Local Governments concerned with heritage issues, urban density, place and identity but with significant other Commonwealth and State economic agendas. The widely predicted downturn in the national economy in the next eighteen months is likely to exacerbate these tensions.

Whether the recent success of the Port Adelaide Enfield Council and sections of the local community in forcing a rethink of the latter stages of Newport Quays can be maintained will be known soon. But the inherent contradictions in the neoliberal model of planning in South Australia suggest this mode of regulation might be unsustainable at the regional level in the long term.

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