Dear Sirs,

Submission regarding the Planning and Design Code – Middleton, 5213

1. Background and overview

The Middleton Town and Foreshore Association is an incorporated association established in the mid-1970s. As well as undertaking projects to promote the preservation and enhancement of Middleton’s natural, built and social environments, the Association gathers community opinion and acts as an advocate for it. We have almost 150 members and our membership are increasingly active and engaged. As you should expect, the proposed Planning and Design Code being proposed by you has attracted considerable interest and attention. Little to none of that attention could be described as positive.
Members of our executive were amongst the very few who attended the consultation session arranged by the SPC and held at Victor Harbor late last year. Several of our members have also participated actively in several sessions arranged by the Alexandrina Council soliciting input from members of its various panels and advisory groups, as well as an information evening arranged for members of the Middleton and Port Elliot communities earlier this week. Finally, and least informatively or successfully, efforts have been made by certain of our members to disentangle the manifest complexities within the portal containing the draft Code.

In summary, we are profoundly concerned that the new Code is based on a false premise (or premises), is being hurriedly and shoddily pursued, and contains within it the recipe for considerable dismay and social dislocation. We suspect that at least some of these views may shared by the growing number of senior policy personnel involved with the Code project who have disassociated themselves from it in recent months.

2. Consultation

While our membership contains a range of highly trained, professional and intelligent people from a variety of disciplines and vocations, we do not have any members of the planning profession or those from other professions specialised in planning matters. However, for such a Code and associated system to be fit for purpose, it should be accessible and useable by people such as our members. Despite our heavy engagement in the consultation process associated with the Code, it is not. That this is not so essentially defeats a core purpose of any such reform and discriminates against those who have neither the specialised training, computer savvy, nor the considerable time it would involve to deal with it.

With its enormous size, multi layers and impenetrable language coding, it would be very challenging to understand even if the portal was up to date and functional. So far as we can tell, the draft Code is more than 3,000 pages, together with the updates, the various historic statements, over-lays, classification tables (a further 2000+ pages) and ancillary documentation. It is overwhelming.

Indeed, the state of the portal rendered the SPC-led regional consultation process an almost complete waste of time and energy, its only useful function to heighten the concerns being broadcast by groups such as the Alexandrina Council, the Local Government Association and Community Alliance SA as to the state of readiness of the Code and the planning “model” it purports to implement. As recently as 6 February 2020, one of our representatives contacted Alexandrina Council’s planning department and was advised that not only could we not access a copy of the Code via Alexandrina Council, they themselves did not have a copy and were only able to access the online portal.

We understand, from the publicity and process initiated by the Labor Government that a core element of the new Code would be to reduce the ability for those potentially affected by developments in the future to receive notice of them, undertake a review and to object. This further step away
from transparency and consultation (and towards potential social dislocation) was "justified" on the basis that the establishment of the Code and its various zones and overlays represented the community’s opportunity to have their say. While this represented a major reduction of rights on its face, that is naturally compounded by the nature of the consultation process being undertaken, the presentation of the consultation materials, their unfinished, uncertain and changing nature, and the constrained set of matters said to be able to be commented upon. It is also screened, at least for those not deeply engaged with the process, behind a narrative that this is essentially only a digitisation project making the system far more accessible and transparent for all, the implication being that it will not yield substantive change to our State. As you know, and as far as we can tell, it contains the activated seeds for profound alterations to the built, natural and social infrastructure of South Australia. To botch or fudge the consultation on something with the apparent reach and consequences of this thing should, in the absence of genuine and substantial remedial effort, be actionable.

While we note that implementation of the Code has been delayed by at least three months, no extension has been allowed for the consultation process. In our view, the process should be extended and substantially revised in a way that makes clear to people what changes are being contemplated in general and specifically for their area. In our view, at least 6 months would be required for that (assuming the SPC is able to restaff itself adequately, including with people able to engage in a less technocratic way) and likely 12.

3. The Code’s fundamentally flawed premise

The flawed premise of the idea that detailed development plans, built up in a granular way over long periods to reflect the nature of the natural and human geography of their areas, is able to be easily reduced and standardised into a single Code is evidenced by the enormous range of errors and failures in that which has been delivered to date. In a country which presents as proudly capitalist, this is copybook socialist State planning. It is much the worse for being coupled with "let-it Rip" content aimed at letting those untroubled by thoughts outside of pure commercial gain have their heads. Diversity will be stripped away in a race to a lowest common denominator outcome.

The grouping of Alexandrina and the southern Fleurieu Peninsula within the Adelaide metropolitan area is the first indication of the problem, that somehow the same approach to South Australia’s only large city is appropriate to the small communities, much loved for their difference from that urban zone, an hour or two away. These areas have entirely different histories, geographies, topographies and local aspirations. Alexandrina Council’s Development Plan is generally accepted by our local community, and its planning provisions reflect a common understanding of what constitutes appropriate development in Middleton and across the Fleurieu Peninsula. Middleton is a small, spacious, green, beachside community to which people escape from Adelaide (as well as from interstate). To replicate urban planning approaches here, let alone the hypercharging of development at the root of the new Code, is to spell its death.
We understand that some scope is provided within the Code for the Council to adjust “IMVs” to try to claw back some specificity. While this would be essential, we submit that this is entirely the wrong approach and that the difference of the area from its urban counterpart should be the starting point.

Another means by which the State (as Lenin may have used that term) will grind out difference, diversity and interest through this Code is through the continued reduction of the powers of Councils, and most notably of elected representatives, to have some input in the planning approval process. We understand that the nature of the review and approval process and the constraints within which it is to be employed will even further reduce the influence of a community on its environment. While this trend has been evident for some time under Minister Rau, it is being taken even further here with deeming provisions operating to reverse the onus on constrained Council resources. While the Council is in no way perfect and we are open to ways to improve the present system, to further reduce the community’s visibility and input is undemocratic and to flirt with anarchy.

The State Government’s rigid intent on establishing a grossly oversimplified one-size-fits-all planning rule book, will result in the wholesale loss of contextual sensitivity and evolved policy thinking.

4. Zoning

The majority of Middleton’s residential zoning is set to lose significant controls if it is downgraded to the General Neighbourhood Zone under the new Code. We are extremely concerned that implementation of “General Neighbourhood Zone” under the new Code will substantially increase the risk of poor planning outcomes for our township. There is serious and adverse potential for our Middleton community to lose its highly valued amenity of its streets and suburbs.

We are anxious that the proposed transition to a “General Neighbourhood Zone” provides a generic infill intent and urban density entirely at odds with the township at present, incompatible with how the town is viewed and used by residents and visitors, and profoundly incompatible with a State which is dry, water constrained, has the lowest tree cover in the country and warming. It is further evidence of the flawed premise we have outlined above. The idea that the watershed and rural or primary production zones around it seem to have been reclassified as “peri-urban” compounds this acutely. Then we have the classification of the Ratalang Conservation Reserve, established through a 99-year lease by your Department, zoned as peri-urban. To say that this supports our thesis on the state of preparedness, nature of the consultation and flawed nature of the overall approach is to risk massive understatement. We are a little breathless as to the crazy political bravery of the local member and the Minister if this is to be the final outcome.

Both the Minister for Planning and the State Planning Commission have repeatedly stated their guarantees of “like for like” transition of Alexandrina Council’s Development Plan to this new Code. However, as shown above, these statements are either disingenuous or demonstrate the extent to which this Code is being done on the run. Rather than “like for like”, such zonings
will drastically and negatively change planning controls in Middleton and across the wider Fleurieu Peninsula.

We STRONGLY urge the State Planning Commission to have due regard to the existing desired character for Middleton that complements existing dwelling character and form. As just one example, currently row dwellings and residential flat buildings are not permitted in our Residential Zones. Yet under this General Neighbourhood Zone, all categories of dwellings, such as detached, semi-detached, row dwellings, residential flats, group dwellings, together with a range of shops, offices and consulting rooms of up to 1000 square metres, (or 200 square metres on arterial and collector roads) will be permitted. Hardly like for like in an area where minimum block sizes are currently 900m2.

We fail to understand how the State Planning Commission can justify such a major change of policy, with the attendant long-term development implications, especially seeing as parts of Middleton’s Residential Zone are adjacent to existing historic conservation zones and protections. At the very least, our residential zoning should transition to Residential Neighbourhood with a series of detailed and extensive TMV changes necessary to take account of Middleton’s extensive use of environmentally friendly wastewater treatment and reuse systems and to achieve a like for like position. If appropriately zoned as Residential Neighbourhood and subject to extensive TMV alteration, then our Residential Zones would remain low to very low density (as that term is generally understood rather than newly defined) thereby acknowledging and respecting Middleton’s overall character as well as residential amenity.

5. Site setbacks / frontages etc

We have serious specific concerns regarding:

- non-residential land use: under Alexandrina Council’s Development Plan, shops, offices and educational establishments are non-complying in the Residential Zones. However, under the new Code, non-residential uses will be permitted, which could adversely impact traffic, parking, noise, neighbour’s amenity and the character of our village. All uses which are currently non-complying in our residential areas (e.g. office and shop) should be deemed to be “restricted development”, to which there are notification and appeal rights, as is currently the case under the existing plan.

- siting and setbacks: under the new Code, building setbacks from side and rear boundaries will noticeably decrease, particularly at upper levels. This is unacceptable and will severely impact amenity and privacy. Existing siting, setback and floor area criteria should be maintained throughout all our residential areas,

- side and rear setbacks do not exist in the draft. This is surely in error. If included in the final draft, it will see the current spaciousness and much of the reason for the habitation of our village disappear.
density and allotment sizes: the new Code appears to contain a number of errors and omissions. We argue that current minimum allotment sizes, heights and frontage widths must match existing which are at 900 m2 to allow for wastewater treatment systems and requirements under the Public Health act. We are concerned that the area per dwelling will be changed from 350m2 to 300m2, (or down to 200m2 for row housing), setbacks have been drastically changed. The front setbacks have been effectively halved, from the current existing established setback of around 10m (suburban wide) to a mandatory 5m. The degree of change, its heedlessness to the nature of the area and what it is used for, the loss of amenity it would represent and the slaughter of softening and cooling greenery it would usher in is extraordinary.

6. Heritage matters

We feel strongly that this new Code will destroy the heritage fabric and character of the Fleurieu Peninsula, including Middleton. The consultation documentation recently issued to heritage property owners in Middleton and the region more generally misses several heritage listings, both State and Local, again evidencing a low state of preparedness and attention to detail.

Retreating from the individual identification of heritage properties and removing the contribution that non-listed yet heritage items contribute to the feel of our town is wholly detrimental. We regard the failure to bring across contributory items to the new Code as a retrograde step in the preservation and adaptive use of our existing heritage stock in Middleton.

We believe that the hitherto reasonable degree of prevailing certainty regarding valued heritage characteristics will be destroyed by the implementation of this Code, and that clarity for all will be trashed. Any future works undertaken pursuant to this Code, be it by owners, purchasers, developers, applicants, communities etc. will now require deep monetary pockets to identify what can and can’t be done.

Historic character of a property and our township area is essentially formed by its CONTEXT, by the original whole buildings and their settings. Middleton’s heritage character is so much more than just the streetscape presentation and front elevation / facade.

Our specific concerns with regards to the Historic Area Statement for Middleton are as follows:

- the generic introduction makes no reference to the Historic Area Overlay being described, so that no context is provided about Middleton’s historic background, development pattern or the heritage values of our village,

- the map provided is grossly basic without any detail such as street layouts/subdivision patterns, already listed local and state heritage places,

- there is inconsistency in mapping style of the proposed Historic Areas and no keys provided to interpret the maps (e.g. 5 colours with no key to
indicate what the colours mean). We believe that the Alexandrina Council's Development Plan maps are far better, and should and could be adapted to replace the minimal, inadequate mapping provided.

- the table has no title and no headings, and it is not clear what is the function of the table? This needs to be clarified for it to make sense, and

- information provided in the tables is confused, inadequate and would provide no basis against which to measure development application. Some of the information comes from existing Development Plan provisions, but is selective and ad hoc. These tables as outlined do not “identify and articulate the key elements of historic importance in a particular area”,

- we could not find any development objectives or policies included in the new Code, which we believe will results in very minimal and vague guidance, and

- we found the terminology used in the Code in relation to heritage quite difficult to follow and inconsistent, with terms being used interchangeably, e.g. is a structure the same as building, the same as a dwelling, the same as a place?

7. Private Open Space

We had understood from some of the promotional materials produced by the Commission that attention would be given to the privacy losses being experienced through the dense urban infill occurring in Adelaide during the past decade. This infill has only increased the difference between Middleton and the lower Fleurieu with urban Adelaide and driven the desire of those in our area to maintain that difference. However, we are seriously concerned about the provisions relating to overlooking, which appear to reduce available screening, compounding the wildly inappropriate zoning previously referenced.

8. Wastewater aspects

Middleton is not serviced by mains sewerage and waste water infrastructure. This does not appear to have been noticed and undermines the zoning and density position. Such large block sizes as are necessary to accommodate this are desired by the community in a relaxed coastal township bordered by rural zones.

9. Natural environment

The natural environment will suffer under this Code. Water catchments will be threatened by the reclassification to peri urban. Long the enemy of the development lobby, the position of trees is made considerably more precarious under this new Code which undermines green cover by facilitating larger developments, less consultation and deeming provisions, the easier removal of trees on both private and public land, and replacement of larger with smaller. This is contrary to public statements made by policymakers. We see this resulting in a significant reduction in canopy cover, habitat loss and
climate resilience, due to the increased infill development opportunities, reduction in minimum site areas, site coverage, setbacks and increased number of street crossovers. Already the least treed State in the country, this will only amplify urban heat island effect and hasten our way to dusty death.

Rather than reducing the protection for trees and green cover, the new Code should be bolstering the weaknesses long evident in the existing. We want more trees to be planted with every development, be it new or infill development, and that more must be done to preserve existing mature trees and significant trees in our village township.

10. Consultation regarding new development applications

The existing public notification scheme recognises and draws upon the Middleton community’s collective local knowledge and contextual input for more significant scale of developments with inherent specific and significant potential impacts.

Further, we believe that our residents should have a right to know about developments happening here in Middleton. We are extremely disappointed that the only public notification will be notice to properties within 60 metres of a proposed development site, with no requirement to advertise more broadly.

We are also extremely disappointed that the State Planning Commission will remove third party appeal rights.

Our residents SHOULD have the right to be heard on what is appropriate development in the areas in which they live. We believe that this Code threatens the ability of our local Council, our community and individuals to influence our lived environment.

We also request a practical solution to the need for on-site signage for public notification purposes, particularly on numerous roads through Middleton and across the Fleurieu Peninsula that are adjacent to 80-100 kms high speed roads.

We hereby request the State Planning Commission to include in the new Code notification for all development that:

- increases development intensity (including additional dwellings on the site),
- includes two storey development, and
- changes use from residential to non-residential.

The above outline is necessarily at a headline level as we have neither the temporal nor technical resources to descend further into the detail at this stage. Such a descent is something which ought, reasonably, to have been facilitated far more extensively and clearly by the Commission. That it has not done so represents a clear failure of process and of democracy. While we are not presently affiliated with Community Alliance of South Australia, we have had the opportunity to read its
submission immediately before finalising this letter. We endorse its content and intend to join its ranks forthwith.

The Minister apparently describes the process as “the biggest modernisation of the planning system for 20 years” to “ensure the State remains liveable, prosperous and vibrant”. There is little doubt who is to become more prosperous from such a Code. At least for Middleton and the Fleurieu Peninsula, it appears to represent an ill-considered race to lowest common denominator uniformity heedless of character, amenity and the types of liveability desired by those who have invested their lives and wealth in it to date. Its apparent failure to seriously consider, much less confront climate change in any meaningful way is also of note.

We trust that the concerns detailed above will be given your full consideration.

Yours sincerely

Keith Dommenz
President

Mark Laurie
Vice-President