

DEVELOPMENT NO.:	25007532
APPLICANT:	Vergola Pty Ltd
ADDRESS:	192-198 Sturt Street, Adelaide SA 5000
NATURE OF DEVELOPMENT:	Change of use from warehouse to light industry
ZONING INFORMATION:	Zones: • City Living Subzones: • Medium-High Intensity Overlays: • Heritage Adjacency • Hazards (Flooding – Evidence Required) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Design Technical Numeric Variations (TNVs): • Maximum Building Height (Metres) (Maximum building height is 11m) • Minimum Site Area (Minimum site area for a detached dwelling is 100 sqm; semi-detached dwelling is 100 sqm; row dwelling is 100 sqm; group dwelling is 100 sqm; residential flat building is 100 sqm) • Maximum Building Height (Levels) (Maximum building height is 3 levels)
LODGEMENT DATE:	18 March 2025
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2025.5 – Consolidated 13 March 2025
CATEGORY OF DEVELOPMENT:	Code Assessed – Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	KT
REFERRALS STATUTORY:	Not required
REFERRALS NON-STATUTORY:	Not required

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Subject Land & Locality Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 4:	Representor Map		

All attachments and appendices are provided via [Link 1](#)

PERSONS SPEAKING BEFORE THE PANEL

Representors

- Bing Li of 17 Chatham Street, Adelaide
- Michael Errey of 30 Gray Court, Adelaide
- Daila Smits of 28 Chatham Street, Adelaide (Charles Baker speaking on behalf of Daila Smits)
- Charles Baker of 28 Chatham Street, Adelaide (speaking on behalf of Daila Smits)
- Tina Carmalengo of 19 Gray Court, Adelaide

Applicant

- Matt King of URPS on behalf of the applicant Vergola Pty Ltd

1. **DETAILED DESCRIPTION OF PROPOSAL**

This application proposes a change of use from warehouse to light industry at 192-198 Sturt Street, Adelaide. The site is proposed to be occupied by Vergola and light industry activity will consist of the assembly of Vergola verandah and carport structural components.

The proposed light industry will occur in the northern portion of the building, setback from Sturt Street, with the following activities:

- cutting and shaping of steel using a roll forming machine for a couple of hours each day
- welding of steel using a single welding machine
- painting of structures by hand
- storage of materials

The southern portion of the building will be used as ancillary office space.

The light industry component will occupy approximately 1,283m² of the building while the office will occupy approximately 347m².

Hours of operation are proposed 8am to 4pm Monday to Friday. These hours have been clarified by the applicant during the assessment process. There is expected to be a maximum of ten staff on site at any time.

Associated vehicle movements will occur from the onsite vehicle bay accessible from Sturt Street and are expected to consist of:

- deliveries of materials twice a month utilising a 7 to 8 metre flatbed tray truck
- dispatch of products using medium sized vans and small trucks three times per week

Staff will park on site using existing onsite vehicle parking accessible from Sturt Street or Gray Court.

Existing waste management practices will continue, with waste stored in two bins on site and waste pickup occurring every two weeks.

No alterations to the existing building are proposed.

2. **BACKGROUND**

This application was subject to two requests for further information during assessment. Requests included detailed floor plans, additional land use details, waste storage and collection details, vehicle movements, staff numbers, advertising and an acoustic assessment report.

Defining the use as 'light industry' as opposed to 'general industry', was confirmed following peer review of the acoustic report provided by the applicant and confirmation of noise impact, together with a review of the scale of industrial activity proposed. This is discussed further in Section 9.5.

The previous use of the site was warehouse with ancillary showroom. The site was occupied by Rexel and was used for the storage and sale of electrical supplies. Rexel now occupies 200-204 Sturt Street directly adjacent to the west.

During the assessment of this application, nearby residents complained the proposed use had commenced without approval. This was investigated by Council's Building Compliance team who undertook an inspection. During an inspection, it was identified Vergola were occupying the site, however this appeared to be within the parameters of the exiting warehouse use. The requirement for an approval prior to commencement of any light industry use was confirmed to the occupant during the inspection.

3. SUBJECT LAND & LOCALITY

Subject Land

The subject site is located on the northern side of Sturt Street, with a primary frontage to Sturt Street of 28 metres and secondary frontages of 29 metres to Petronella Lane to the north and 33 metres to Gray Court to the east.

The subject site has a site area of approximately 2,032m². The site is an irregular shape, with the portion fronting Gray Court extending behind 188 and 190 Sturt Street which are located on the corner of Sturt Street and Gray Court.

The existing building on the subject site occupies an area of approximately 1,630m², with uncovered areas for car parking located facing Gray Court and on the eastern portion of the Sturt Street frontage.

The existing use of the site is a warehouse.

Vehicle access to the site is obtained via existing crossovers from Sturt Street and Gray Court.

No regulated or significant trees are located on the site.

Locality

The locality is mixed use in nature, consisting of a variety of commercial and residential premises. There is a distinct non-residential character in the area, particularly along Sturt Street, with examples of other land uses not envisaged in the zone (including warehouses, stores and small-scale distilleries) existing together with nearby dwellings.

This portion of Sturt Street is characterised by a variety of commercial and non-residential activities including shops, cafes/restaurants, offices, showrooms and an educational facility interspersed with low rise detached and semi-detached dwellings. Wright Street to the north contains a similar mix of land uses.

The character of minor streets in the locality varies by street, with Gray Court, Petronella Lane, Chatham Street and Little Gilbert Street predominantly residential in nature, and others such as Frederick Street and Logan Street containing warehouses, stores and small-scale distilleries.

The locality is low-rise in nature, comprised predominantly of one and two storey buildings. Site coverage is relatively high with buildings typically built to street boundaries on Sturt Street and Wright Street and small setbacks elsewhere. The area is characterised by a mix of architectural styles with historic and contemporary buildings throughout.

There are several Local Heritage Places in proximity to the subject site, including immediately adjacent at 188-190 Sturt Street and to the south at 193 Sturt Street, 185-187 Sturt Street and 181 Sturt Street.

Figure 3.1 – View of subject site from Sturt Street



Figure 3.2 – On site car parking visible from Gray Court



Figure 3.3 - Subject site driveway and adjacent dwellings on Sturt Street



Figure 3.4 – Adjacent sites to the west on Sturt Street



Figure 3.5 – Shops, offices and dwellings on southern side of Sturt Street



Figure 3.6 - Shops, offices and dwellings on southern side of Sturt Street



Figure 3.7 – Rear of subject site visible from Petronella Lane



Figure 3.8 – Rear of subject site and adjacent dwellings visible from Petronella Lane



Figure 3.9 – Adjacent building at 26-28 Gray Court



Figure 3.10 – Dwellings on western side of Gray Court



4. **CONSENT TYPE REQUIRED**

Planning Consent

5. **CATEGORY OF DEVELOPMENT**

PER ELEMENT:

- Industry: Code Assessed - Performance Assessed
- Change of use: Code Assessed - Performance Assessed

OVERALL APPLICATION CATEGORY:

Code Assessed - Performance Assessed

REASON:

Change of use to light industry is not specified as Restricted, Accepted or Deemed to Satisfy within the City Living Zone as per Table 1, Table 2 and Table 4 of the Zone. The proposal is therefore classified as Performance Assessed.

6. **PUBLIC NOTIFICATION**

REASON

Light industry is not an envisaged use within the City Living Zone. Considering the scale and potential impact of the use, it is not considered to be of a minor nature for the purposes of public notification in accordance with City Living Zone Table 5. Table 5 does not otherwise include any exclusion from a requirement to undertake public notification for light industry. The application therefore required public notification.

Table 6.1 – List of Representations		
No.	Representor Address	Request to be Heard
1	Bing Li – 17 Chatham Street, Adelaide	Yes - Opposed
2	Jane Egerton – 188 Sturt Street, Adelaide	No - Opposed
3	Michael Errey – 30 Gray Court, Adelaide	Yes - Opposed
4	Xuedong Peng – 24 Chatham Street, Adelaide	No - Opposed
5	Wayne Feutrill – 190 Sturt Street, Adelaide	No - Opposed
6	Zinta Ozolins – 6 Evans Street, Goolwa Beach	No - Opposed
7	Wayne Feutrill – 190 Sturt Street, Adelaide (additional representation)	No - Opposed
8	Dailia Smits – 28 Chatham Street, Adelaide	Yes - Opposed
9	Tina Carmalengo – 19 Gray Court, Adelaide	Yes - Opposed
10	Charles Baker – 28 Chatham Street, Adelaide	Yes - Opposed
11	Rae Ogilvie – 15 Gray Court, Adelaide	No - Opposed
12	Mary Vickery – 17 Gray Court, Adelaide	No - Opposed

Table 6.2 – Summary of Representations

- Industrial use inconsistent with character of zone and locality
- Increased noise emissions harmful to amenity of residential properties in locality
- Increased traffic resulting from use detrimental to amenity of area
- Additional vehicle movements harmful to dwellings directly adjacent driveway
- Negative impact to air quality and health of residents via fumes and emissions
- Impact to property values
- Potential harm to sensitive uses such as nearby childcare centre
- Hours of operation not appropriate for area considering nature of use
- Concerns regarding methodology and findings of acoustic assessment report
- Use incompatible with relevant Planning and Design Code provisions
- Use does not align with vision for area set out in City of Adelaide City Plan

Note: The full representations and applicant's response to the representations are included in Attachments 5 and 6

7. AGENCY REFERRALS

Nil

8. INTERNAL REFERRALS

Nil

9. **PLANNING ASSESSMENT**

The application has been assessed against the relevant provisions of the Planning and Design Code, which are contained in Appendix One.

9.1 **Summary of City Living Zone Assessment Provisions**

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Predominantly low-rise, low to medium-density housing, with medium rise in identified areas, that supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities that support city living. Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.		
Land Use and Intensity			
PO 1.1	Refer Section 9.5.	☐	☒
PO 1.2	Proposed non-residential development does not improve community accessibility to the type services of envisaged in zone.	☐	☒
PO 1.3	Light industrial use does not complement the residential character, however amenity expected to be retained.	☒	☒
PO 1.4	- Light industry does not improve community access to services but does maintain residential amenity to a satisfactory degree. - Change of use constitutes reuse and adaption of existing commercial premises and provides new business along Sturt Street which has an established mixed use character.	☒	☐
Built Form and Character			
PO 2.1	- Development does not increase the number of dwellings in the zone but utilises existing non-residential property and will not reduce the number of residential properties. - Residential amenity maintained to an acceptable degree.	☒	☒
Car Parking and Access			
PO 5.1	Land use utilises existing vehicle access and car parking areas. No additional impacts to pedestrian environment or residential scale and pattern of development.	☒	☐

9.2 **Summary of Medium-High Intensity Subzone Assessment Provisions**

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Medium rise, medium density housing in a variety of forms with an eclectic mix of supporting non-residential land uses interspersed (including as mixed use development) that complement the area's urban residential amenity.		
DO 2	Redevelopment of existing non-residential sites into integrated mixed use developments to increase the residential population and vibrancy of the area.		

Land Use and Intensity			
PO 1.1	Refer Section 9.5.	☐	☒

9.3 Summary of Applicable Overlays

The following Overlays are not considered relevant to the assessment of this application:

- Affordable Housing Overlay – non-residential development
- Airport Building Heights (Regulated) and Building Near Airfields Overlay – no additional built form
- Building Near Airfields Overlay – not located near airfield
- Design Overlay – not proposing a medium to high rise building with a value over \$10 million
- Hazards (Flooding - Evidence Required) Overlay – no additional built form
- Heritage Adjacency Overlay – no additional built form, no land division occurring
- Prescribed Wells Area Overlay – no groundwater concerns
- Regulated and Significant Tree – no trees impacted
- Stormwater Management Overlay – no additional built form
- Urban Tree Canopy – no additional built form

9.4 General Development Policies

The following General Development Policies are relevant to the assessment:

Design in Urban Areas

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Development is contextual, durable, inclusive and sustainable.		
Site Facilities / Waste Storage (excluding low rise residential development)			
PO 11.1	Proposal will utilise existing waste storage and collection arrangements consisting of two bins on site and collection every two weeks.	☒	☐

Interface between Land Uses

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	Development located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.		
General Land Use Compatibility			
PO 1.2	Development adequately minimises adverse impacts to adjacent sensitive receivers.	☒	☐

Hours of Operation			
PO 2.1	Hours of operation will not result in unreasonable impact to amenity of sensitive receivers.	☒	☐
Activities Generating Noise or Vibration			
PO 4.1	Noise emitted will not unreasonably impact the amenity of sensitive receivers or lawfully approved sensitive receivers.	☒	☐

Transport, Access and Parking

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.		
Movement Systems			
PO1.1	Development integrated with existing transport system.	☒	☐
PO 1.2	- Vehicle movements from Sturt Street which has a mixed use character. - Vehicle movements will occur adjacent sensitive receivers at 190 Sturt Street, however movements associated with land use will be infrequent and similar to movements that occurred for the exiting warehouse.	☒	☐
PO1.3	Industrial and commercial vehicle movement area separated from staff/customer parking area.	☒	☐
PO1.4	Loading, unloading and turning of vehicles associated with use will not interrupt the operation of public roads or pedestrian paths or result in queuing in the public realm.	☒	☐
Vehicle Access			
PO3.1	Development provides access via a lawfully existing access point.	☒	☐
Vehicle Parking Rates			
PO 5.1	Refer Section 9.5.	☒	☐

9.5 Detailed Discussion

Land Use Definition

Land uses definitions are detailed in the Land Use Definitions Table in Part 7 of the Planning and Design Code and 'industry' is defined as follows:

Industry

Means the carrying on, in the course of a trade or business, of any process (other than the generation of electricity using a renewable energy source or a process in the course of farming or mining) for, or incidental to:

- the making of any article, ship or vessel, or of part of any article, ship or vessel; or*
- the altering, repairing, ornamenting, finishing, assembling, cleaning, washing, packing, bottling, canning or adapting for sale, or the breaking up or demolition, of any article, ship or vessel; or*
- the getting, dressing or treating of materials.*

The use may include:

- d) *selling by wholesale of goods manufactured on site*
- e) *selling by retail of goods manufactured on site, provided the total floor area occupied for such sale does not exceed 250m² (and industrial will be construed accordingly).*

Subsets of 'industry' include 'general industry', 'light industry' and 'special industry' as follows:

General Industry

Means any industry other than a light industry or special industry.

Light Industry

Means an industry where the process carried on, the materials and machinery used, the transport of materials, goods or commodities to and from the land on or in which (wholly or in part) the industry is conducted and the scale of the industry does not:

- a) *detrimentially affect the amenity of the locality or the amenity within the vicinity of the locality by reason of the establishment or the bulk of any building or structure, the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, spilled light, or otherwise howsoever; or*
- b) *directly or indirectly cause dangerous or congested traffic conditions in any nearby road.*

Special Industry

Means an industry where the processes carried on, the methods of manufacture adopted or the particular materials or goods used, produced or stored, are likely to:

- a) *cause or create dust, fumes, vapours, smells or gases; or*
- b) *discharge foul liquid or blood or other substance or impurities liable to become foul, and thereby:*
- c) *endanger, injure or detrimentially affect the life, health or property of any person (other than any person employed or engaged in the industry); or*
- d) *produce conditions which are, or may become, offensive or repugnant to the occupiers or users of land in the locality of or within the vicinity of the locality of the land on which (whether wholly or partly) the industry is conducted.*

The proposal includes the making, altering, finishing and adapting for sale of articles and is therefore an 'industry'. In terms of the 'industry' subsets, a 'special industry' can be excluded as the proposal clearly does not fit this definition.

Considering the proposed activities, the type of industry is largely dependent on the extent of noise which has been confirmed with an acoustic report and peer review. This will be expanded on further below; however, the proposal is considered a 'light industry' as it is not expected to detrimentially affect the amenity of the locality or indirectly cause dangerous or congested traffic conditions in any nearby road.

Case Law confirms that should an intensification of industrial activity be proposed to an extent the use would no longer be 'light industry', this would require a development application for a change of use which would likely be at least 'general industry'. If this was to occur, additional impacts would be considered in determining suitability of the use, however any intensification would be difficult to justify in this location due to a likely negative impact on amenity.

Appropriateness of Use

The subject site is in the Medium-High Intensity Subzone of the City Living Zone. While the zone is predominantly residential in nature, the desired outcomes of the zone and subzone speak to the degree of non-residential use envisaged.

City Living Zone DO 1 calls for:

a diversity of services and facilities that support city living and small scale employment and community service uses that contribute to making the neighbourhood a convenient place to live without compromising residential amenity.

Additionally, Medium-High Intensity Subzone DO 1 calls for:

an eclectic mix of supporting non-residential land uses interspersed (including as mixed use development) that complement the area's urban residential amenity.

City Living Zone PO 1.1 envisages diverse housing and accommodation complemented by a range of compatible non-residential uses supporting an active and convenient neighbourhood. PO 1.3 reinforces the requirement for compatibility of non-residential development, calling for it to complement the residential character and amenity of the neighbourhood. DPF 1.1 provides a list of envisaged land uses and assists in clarifying what is considered a compatible non-residential use in the zone. Non-residential land uses listed include:

- childcare facility
- community facility
- consulting room
- educational facility
- office
- personal or domestic services establishment
- place of worship
- recreation area

City Living Zone PO 1.2 expands on the degree of acceptable non-residential development, requiring development to be located and designed to improve community accessibility to services primarily in the form of:

- small-scale commercial uses such as offices, consulting rooms and personal or domestic services establishments
- community services such as educational facilities, community centres, places of worship, childcare facilities and other health and welfare services.
- services and facilities ancillary to the function or operation of supported accommodation or retirement housing
- open space and recreation facilities
- expansion of existing hospital and associated facilities.

These Performance Outcomes indicate non-residential land uses in the zone should be small in scale, of a variety that has minimal impact to amenity or provides a convenient/essential service that would be frequently accessed by nearby residents. While the proposed light industry will not provide an essential service for local residents or contribute to an active and convenient neighbourhood, the same can be said of the existing warehouse.

The proposed land use is not considered to be a significant departure from what is already occurring on the site in terms of compatibility with the character of the locality and will not result in a notable difference in impact to amenity of nearby residents. There are also other non-residential land uses not in keeping with those typically desired in the City Living Zone, with the warehouse on the subject site, bulky goods outlet directly adjacent to the west at 200 Sturt Street, small scale distilleries in Frederick Street and a storage facility in Logan Street.

Zone PO 1.4 stipulates:

Commercial activities improve community access to services are of a scale and type to maintain residential amenity, and primarily comprise:

- a) home-based business activities
- b) the reuse and adaption of existing commercial premises
- c) new businesses along street frontages with an established mixed use character, particularly the following:
 - i. within the Medium-High Intensity Subzone and fronting:
 - A. Gilles Street / Gilbert Street
 - B. Sturt Street
 - C. Carrington Street (west of Hurtle Square)
 - D. Archer Street
 - E. Ward Street
 - ii. Tynte Street (west of Bevis Street)

While the proposed use will not improve community access to a service, it will comprise a new business with a primary frontage to Sturt Street, a street frontage with an established distinct mixed use character. The scale of activity associated with the use also is also expected to maintain residential amenity in accordance with PO 1.4.

Legal advice has previously been sought regarding the interpretation of PO 1.4 and determined the reference to 'primarily comprise' is positive in nature and does not operate as an exclusion. The advice also confirmed the use of 'primarily', rather than 'must' or 'only', suggests other forms of development within the zone may also be appropriate. This also extends to the 'primarily' reference in zone PO 1.2 referred to previously.

City Living Zone PO 2.1 calls for the number of dwellings in the zone to be increased while maintaining residential amenity. Medium-High Intensity Subzone PO 1.1 envisages development of medium density accommodation types for living. Despite not resulting in an increase in dwelling numbers, the proposal maintains existing dwelling numbers in the zone by re-purposing an existing commercial property and maintains residential amenity with minimal additional impact on surrounding properties.

In terms of the potential for this application to set a 'precedent', the Courts have made it clear the 'precedent effect' of a particular development approval is not justification for the approval of another, similar development. Similar proposals on different parcels of land need to be assessed individually and on the particular merits of each proposal.

Noise Impact

Following clarification of activities associated with the proposed use, an acoustic report detailing noise impact to sensitive receivers was requested and was subsequently provided by the applicant. Council had a peer review of this acoustic report undertaken by an independent acoustic engineer. Initial concerns were raised, however these were rectified following additional clarification of the findings. Council's independent peer review confirmed the accuracy of the applicant's acoustic assessment and that there would be a low risk of non-compliance with the noise guidelines.

Considering the nature of light industry as a use not envisaged in the City Living Zone, impact from noise is a crucial consideration in determining acceptability of the proposal. The policy framework for acts and activities generating industrial noise is contained within General Development Policies – Interface between Land Uses. These policies are informed by the *Environment Protection (Commercial and Industrial Noise) Policy 2023*.

Measurements in the applicant's acoustic report were based on actual operation of the machinery proposed to be used which was placed on the site during testing.

The acoustic assessment confirmed the relevant Environment Protection Policy noise level criterion of 47dB(A) can be achieved by the proposed activity at all sensitive receivers in proximity, subject to the following noise control measures:

- closure of all external doors when industrial activity occurs
- maintenance of soft stops on guillotine of roll forming machine
- location of machinery on western most side of building
- limiting frequency of guillotine cuts on roll forming machine.

As per the findings of the acoustic report and peer review, the proposal is expected to achieve the relevant Environment Protection (Commercial and Industrial Noise) Policy criteria in accordance with Interface Between Land Uses DPF 4.1. The development will therefore not unreasonably impact the amenity of adjacent sensitive receivers by way of noise in accordance with Interface Between Land Uses PO 4.1. The proposed land use mitigates adverse impacts to sensitive receivers to a satisfactory degree in accordance with Interface Between Land Uses PO 1.2.

Hours of Operation

The hours of operation are proposed 8:00am to 4:00pm Monday to Friday.

Interface Between Land Uses PO 2.1 requires non-residential development to not unreasonably impact the amenity of sensitive receivers through hours of operation having regard to the nature of the development, measures to mitigate off-site impacts, the extent to which the development is desired in the zone and measures to mitigate adverse impacts in an adjacent zone primarily for sensitive receivers. While the proposed land use is not specifically desired in the zone, the impact of noise and vehicle movement during operational hours is not expected to be impactful to adjacent sensitive receivers and the hours of operation are reasonable.

Traffic/Car Parking

Vehicle movements associated with the proposal will be relatively infrequent with deliveries of materials to the site using a flatbed tray truck will occur twice a month while outgoing deliveries using vans or small trucks will occur three times a week. These vehicle movements will occur from the existing driveway on Sturt Street. Commercial vehicle movements from Sturt Street will be infrequent and utilise space on the site to avoid interruption of public roads and pedestrian paths in accordance with Transport, Access and Car Parking PO 1.4.

Transport, Access and Car Parking PO 1.2 discourages commercial and industrial vehicle movements through residential streets and adjacent sensitive receivers. Providing access for deliveries from Sturt Street avoids industrial vehicle movement through residential streets in accordance with PO 1.2, however there is a sensitive receiver adjacent this driveway at 190 Sturt Street. Considering the relatively low frequency of vehicle movements, existing site conditions and vehicle movement in Sturt Street, the additional impact to this sensitive receiver resulting from proposed vehicle movement is not expected to be detrimental.

On site car parking is available from Sturt Street and the eastern side of the site accessed via Gray Court. There will be no change to existing arrangements, with this portion of the site utilised for onsite car parking for the previous use. The southern portion of Gray Court is mostly utilised for vehicle access, with no footpath on the eastern side and existing crossovers on the western side. Continuation of use of this part of the site for car parking separates passenger vehicle parking from other vehicle movements in accordance with Transport, Access and Car Parking PO 1.3 and will avoid impacting public roads and pedestrian paths in accordance with Interface between Land Uses PO 1.4.

Transport, Access and Car Parking Table 2 designates three spaces per 100m² of gross leasable floor area for non-residential development in the City Living Zone. This equates to 48 spaces for this proposal. The proposal provides approximately 12 onsite car parking spaces which is well under the Table 2 requirement. However, the 12 carparks for the existing warehouse, which is subject to the same requirements, will be maintained.

There is no change to gross leasable floor area, consequently the number of carparks required does not change. As the existing 36 car parking space shortfall will be maintained, there is no change to consider against Code requirements. The onsite car parking is therefore acceptable.

Seriously at Variance

The Courts have previously determined the assessment of whether a development is seriously at variance with the provisions of the Planning and Design Code should focus on the nature of the proposed land use and the relevant performance outcomes concerning whether an application is seriously at variance or not.

Considering the existing warehouse land use, non-residential character in the locality and acceptable level of impact to adjacent properties, the proposal is not considered to be seriously at variance.

10. CONCLUSION

Light industry is not an envisaged use in the City Living Zone. This is reflected by the Desired Outcome and Performance Outcomes of the zone, which envisage non-residential low impact land uses or those that provide convenience to residents in the area. However, when considering the previous use of the site and potential impact to the locality, it is considered acceptable for the following reasons:

- the previous land use of warehouse is also not envisaged in the City Living Zone and the extent of light industrial activity proposed does not present a significant departure in terms of character or impact on surrounding properties
- the locality has a predominantly mixed character and examples of other land uses not envisaged in the zone exist in the area
- noise impact is acceptable in accordance *Environment Protection (Commercial and Industrial Noise) Policy 2023* as adjacent sensitive receivers will not be significantly impacted by noise generated by the proposed use
- vehicle movements associated with the development will not have a notable impact on the existing road network, pedestrians or adjacent sensitive receivers.

The existing warehouse use is a key reason why the proposed light industry use is considered acceptable as it will not result in loss of a use that is characteristic of the zone or complementary to residential amenity.

Designation as light industry means additional assessment and approval is required should the land use intensify, either by the current occupant or a new occupant. The recommended detailed conditions specific to this proposal will also trigger the need for a further assessment with any proposed change. These conditions are also intended to further restrict the proposed light industry to the acceptable level specified.

While this assessment is finely balanced, there is adequate justification for the proposed use in this location. The proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code and satisfies the relevant performance outcomes to a degree that warrants support for Planning Consent.

11. RECOMMENDATION

It is recommended the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and

It is recommended the Council Assessment Panel resolve that:

2. Development Application Number 25007532, by Vergola Pty Ltd is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
 - Vergola – Site Plan, dated 3 March 2025
 - URPS – Planning Report, dated 17 March 2025
 - URPS – Response to Request for Information, dated 31 March 2025
 - Echo Acoustic Consulting – 192-198 Sturt Street, Adelaide – Environmental Noise Assessment, dated 16 July 2025

2. **The hours of operation shall be limited to 8:00am to 4:00pm Monday to Friday only.**

3. **All external doors shall remain closed during operation of any machinery (including the roll forming and welding machines).**

4. **Soft stops on the guillotine component of the roll forming machine shall be maintained at all times, to the reasonable satisfaction of the relevant authority.**

5. **The frequency of cuts made by the roll forming machine shall be limited to 1 cut every 4 minutes, to the reasonable satisfaction of the relevant authority.**

6. **The gathering, depositing and collection of waste associated with the development (other than the public waste collection provided by Council) shall only occur between 9.00am and 7.00pm on a Sunday or public holiday, and between 7.00am and 7.00pm on all other days.**

Advisory Notes

1. Development Approval Required

No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

2. Expiration of Consent

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

3. Commencement and Completion

Pursuant to Regulation 93 of the Planning, Development and Infrastructure (General) Regulations 2017, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

4. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone 8204 0289).

5. Consultation with Adjoining Owners

In addition to notification and other requirements under the Planning, Development and Infrastructure Act and Fences Act, it is recommended that the applicant / owner consult with adjoining owners and occupiers at the earliest possible opportunity after Development Approval, advising them of proposed development work so as to identify and discuss any issues needing resolution such as boundary fencing, retaining walls, trees/roots, drainage changes, temporary access, waste discharges, positioning of temporary toilets etc.

6. External Signs

This consent does not include advertisements for which a separate application must be submitted.