



*City of*  
**Wanneroo**

**SUPPLEMENTARY  
BRIEFING PAPERS  
FOR ELECTED MEMBERS'  
BRIEFING SESSION**

Draft Only

to be held at  
the Civic Centre,  
Dundebar Rd, Wanneroo  
on 14 July, 2015 commencing at 6.00PM



# City of Wanneroo

## Briefing Papers for Tuesday 14 July, 2015

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# L A T E I T E M S A G E N D A

## Item 5 Late Reports

### 5.1 Application for Cattery at 41 Casuarina Way Wanneroo

File Ref: DA2015/338 – 15/156909  
Responsible Officer: Director Planning and Sustainability  
Disclosure of Interest: Nil  
Attachments: 3

#### Issue

To consider a development application for a proposed Cattery at Lot 151 (41) Casuarina Way, Wanneroo.

<b>Applicant</b>	Jacqueline and Tony Huntley
<b>Owner</b>	Jacqueline and Tony Huntley
<b>Location</b>	Lot 151 (41) Casuarina Way
<b>Site Area</b>	1.5009ha
<b>DPS 2 Zoning</b>	Special Rural

#### Background

The subject lot is 1.5009ha in area and is zoned Special Rural under the District Planning Scheme No. 2 (DPS 2). There is an existing single house, pool and shed on the subject site. **Attachment 1** provides a location plan of the subject site.

#### Detail

The proposed Cattery will consist of the following structures:

- Four separate buildings used for the housing of the cats located to the northeast corner of the lot. Each building is 200m<sup>2</sup> in area and is divided into individual units for each cat with 25 units in each building;
- An outbuilding approximately 30m<sup>2</sup> in area used for storing equipment related to the cats such as food, litter, bedding, in addition to a kitchen and laundry;
- An outbuilding approximately 30m<sup>2</sup> in area with a staff kitchen, toilets and staff room; and
- An outbuilding approximately 25m<sup>2</sup> in area used for customer toilets and grooming of the cats.

**Attachment 2** provides a site plan, floor plan and elevations for the Cattery proposal on the subject lot.

The proposed Cattery will cater for a total of 100 cats. A Cattery is defined within DPS 2 as follows:

*“means the use of an approved outbuilding constructed in accordance with the Health Act Model By-Laws Series ‘A’ Part One – General Sanitary Provisions (1927) for the purpose of keeping more than three (3) cats over the age of three (3) months”.*

The applicant has indicated that approximately 80% of the cats will be boarding, where cat owners will pay a fee to leave the cats on site for a period of time. The applicant advised that the cats will usually be on site for a period of approximately one to two weeks. The remaining 20% of the cats will be stray cats that will be going through a re-homing program. Stray cats will be delivered to the site where they will be cared for until a new owner is found. The proposed Cattery will only be used for the temporary housing of cats and will not be used for breeding of cats. The operating hours of the business will be between 9am and 6pm for customers seven days a week.

The applicant advises that the development of the Cattery will be staged, with only one of the four buildings (25 individual units) used for the boarding of cats being constructed immediately should approval be granted. It is anticipated a second building will be constructed after a year and the final two proposed buildings will be constructed based upon demand for further units. Based on this staged approach the applicant has advised that initially one permanent employee and one part-time employee will operate at the Cattery. When the cattery is fully built out, the applicant estimates that a total of four to six staff will work from the site.

## Consultation

Advertising was undertaken by way of writing to surrounding landowners for a period of 21 days. At the conclusion of the comment period three submissions were received, all objecting to the proposal. A summary of the submissions received and Administration's responses are included in **Attachment 3**.

The main issues raised during the advertising period and following assessment by Administration relate to:

- Suitability of a proposed Cattery in a Special Rural Area;
- Impacts to amenity including noise and odour; and
- Traffic impacts.

These issues are addressed in the Comment section and in the schedule of submissions of this report.

## Comment

### Special Rural Provisions

A Cattery is a 'D' use in a Special Rural Zone under Table 1 (the Zoning Table) of DPS 2. Clause 3.2.2 of DPS 2 states that a D use class is as follows:

*"D" = A use class that is not permitted, unless the Council grants its approval after following the procedures laid down by subclause 6.6.2.*

Under Clause 6.6.2 of DPS 2, Council in exercising its discretion as to the approval or refusal of an application for Planning Approval, shall have regard to the provisions of Clause 6.8 which sets out various matters to be considered by Council.

The lot is also subject to Special Provisions set out in Schedule 13 of DPS 2 as it is within Special Rural Zone No. 3. One of the requirements of the Special Provisions for Special Rural Zone No. 3 is as follows:

*The land the subject of this Zone may be used for residential and/or horticultural purposes only.*

Within DPS 2, there is no specific definition of either 'residential' or 'horticultural'. In the absence of a definition in the DPS 2, a definition for both residential and horticulture has been derived from other sources.

The Residential Design Codes (R-Codes) defines 'residential development' as follows:

*Development of permanent accommodation for people, and may include all dwellings, the residential component of mixed-use development, and residential buildings proposing permanent accommodation.*

The Australian Oxford Dictionary defines horticulture as follows:

*The arts or practice of garden cultivation and management.*

In respect to these definitions, the Cattery is not considered to be residential development as it will not be used for the permanent accommodation of people. The Cattery is also not considered to have any relation to garden cultivation and management. On the basis of the above, a Cattery is not considered to be a residential or horticultural purpose and therefore does not satisfy the Special Provisions applicable within Special Rural Zone No. 3.

Further Clause 3.18.5 of DPS 2 states the following:

*'Notwithstanding any other provision of the Scheme, in the case of any conflict between the special provisions relating to individual Special Rural Zones and Table 1, the special provisions shall prevail.'*

Whilst the use class is 'D', this Clause states that the Special Provisions applicable to Special Rural Zone No. 3 prevail and therefore a Cattery is not permissible.

### Legal Advice

Administration received legal advice regarding the permissibility of the proposed use and the ability for the Special Provisions under Schedule 13 of DPS 2 to be varied. The legal advice indicates that the Special Rural Provision that restricts the use of the subject land cannot be varied as it is in the nature of a 'prohibition' as opposed to a 'development standard or requirement'. As a result, the application is not capable of being approved under DPS 2.

### Amenity

Objections were received during the advertising period raising concerns with the impact of the Cattery on the amenity of the area, specifically referencing concerns with traffic, noise and odour.

As previously discussed, Council is to consider matters listed under Clause 6.8 when considering a 'D' use. Two of these matters are as follows:

- "(i) the compatibility of a use or development within its setting; and*
- (n) the preservation of the amenity of the locality"*

When taking into account these matters in relation to a Cattery within the Special Rural Zone No. 3, the objectives of the Special Rural Zone should be taken into consideration. These objectives provide guidance in assessing the suitability of land uses in the Special Rural Zone.

Under Clause 3.18.2 of DPS 2, the objectives of the Special Rural Zone are as follows:

- “(a) designate areas where rural-residential retreats can be accommodated without detriment to the environment or the rural character;*
- (b) meet the demand for a rural lifestyle on small rural lots generally ranging from one to four hectares in size;*
- (c) maintain and enhance the rural character and amenity of the locality.”*

Clause (a) and (b) are not considered to be relevant to the impacts on the amenity of the surrounding area that may be result from a Cattery. However, a Cattery may impact the amenity of the area due to potential noise and odour emissions and the generation of additional traffic within the locality.

#### Noise and Odour

In respect to noise, any noise generated by a Cattery is required to comply with the *Environmental Protection (Noise) Regulations 1997* at all times. The applicant has confirmed that the individual units would be sound proofed with the entrances facing away from the adjoining properties, mitigating the sound that may be caused by the cats.

In respect to odour, odour must comply with the *Health Act 1911* at all times. The applicant has advised that the odour concerns are addressed through the use of a high quality cat litter that will ‘eliminate urine and faecal matter, destroying bacteria within minutes of becoming wet.’ This litter will be stored in large plastic containers and disposed of weekly at the local refuse tip.

#### Traffic Impacts

Objections were received during the advertising period raising concerns that the increased traffic caused by the Cattery will impact the Special Rural area. The applicant has stated that there will be approximately 15 to 20 additional trips per week as a result of the Cattery. Based on Department of Planning transport data, a single dwelling is assumed to generate 8 vehicle trips per day on average. However, it is considered this figure may not be accurate based on the total number of staff and amount of cats proposed to be accommodated on-site once fully developed. Therefore, this would require further investigation by Administration to determine more accurately vehicle trip figures if the matter was to proceed.

Irrespective of the above, under Liveable Neighbourhoods Casuarina Way is considered to be an Access Street which can accommodate approximately 3,000 vehicles trips per day. Casuarina Way is a loop road that services 23 lots with existing dwellings. Using the abovementioned Department of Planning transport data, these 23 lots would generate approximately 180 vehicle trips per day along Casuarina Way. As such, even if the figures outlined by the applicant are incorrect, it is unlikely that the total number of vehicle trips generated from the Cattery would result in more than 3,000 trips along Casuarina Way.

## Conclusion

Having regard to the provisions of DPS 2 and the legal advice, Council must refuse the application for the proposed Cattery at Lot 151 (41) Casuarina Way, Wanneroo as it does not comply with the Special Rural Provisions under Schedule 13 of DPS 2.

In order to facilitate the proposed land use on this property, an amendment to DPS 2 would be required. This could be done in a manner which allows for this type of use on just this particular property, or to allow it more generally within this Special Rural Zoned area.

If Council was of the view that a Scheme Amendment was appropriate, it could instruct Administration to initiate a review of the above options which could be presented to a future Council Meeting.

## **Statutory Compliance**

This application has been assessed in accordance with the City of Wanneroo's District Planning Scheme No. 2.

## **Strategic Implications**

The proposal aligns with the following objective within the Strategic Community Plan 2013 – 2023:

*"2 Society - Healthy, safe, vibrant and active communities.*

*2.1 Great Places and Quality Lifestyle - People from different cultures find Wanneroo an exciting place to live with quality facilities and services."*

## **Risk Management Considerations**

Nil

## **Policy Implications**

Nil

## **Financial Implications**

Nil

## **Voting Requirements**

Simple Majority

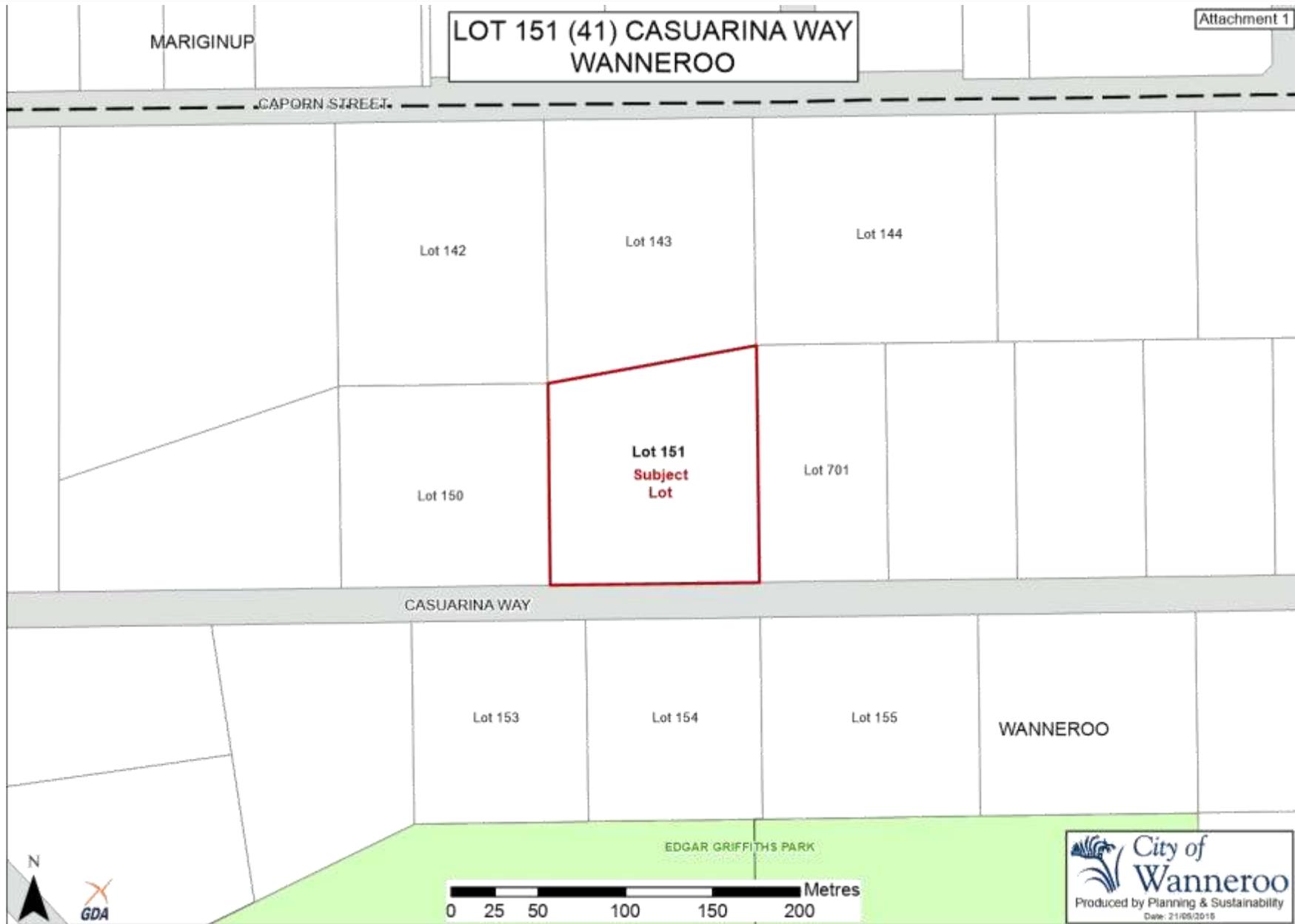
## Recommendation

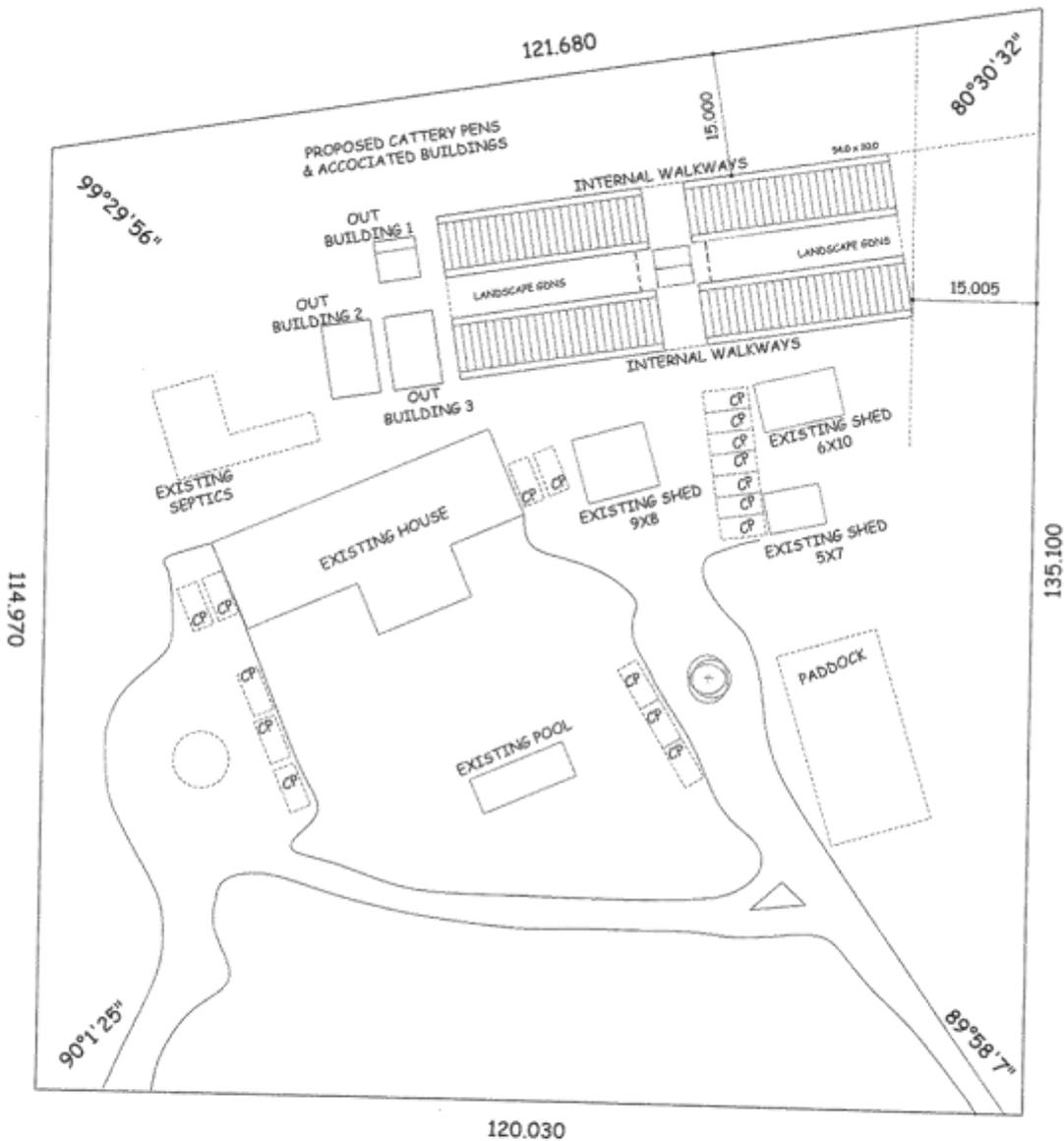
### That Council:-

1. **REFUSES** the development application for the Cattery at Lot 151 (41) Casuarina Way, Wanneroo as the Cattery does not comply with Clause 2) of Special Rural Provision No. 3 in Schedule 13 of District Planning Scheme No. 2 as a Cattery is not a Residential or Horticultural purpose; and
2. **ADVISES** the submitters of this decision.

#### *Attachments:*

1. *Attachment 1* 15/157650
2. *Attachment 2* 15/181174
3. *Attachment 3* 15/182768



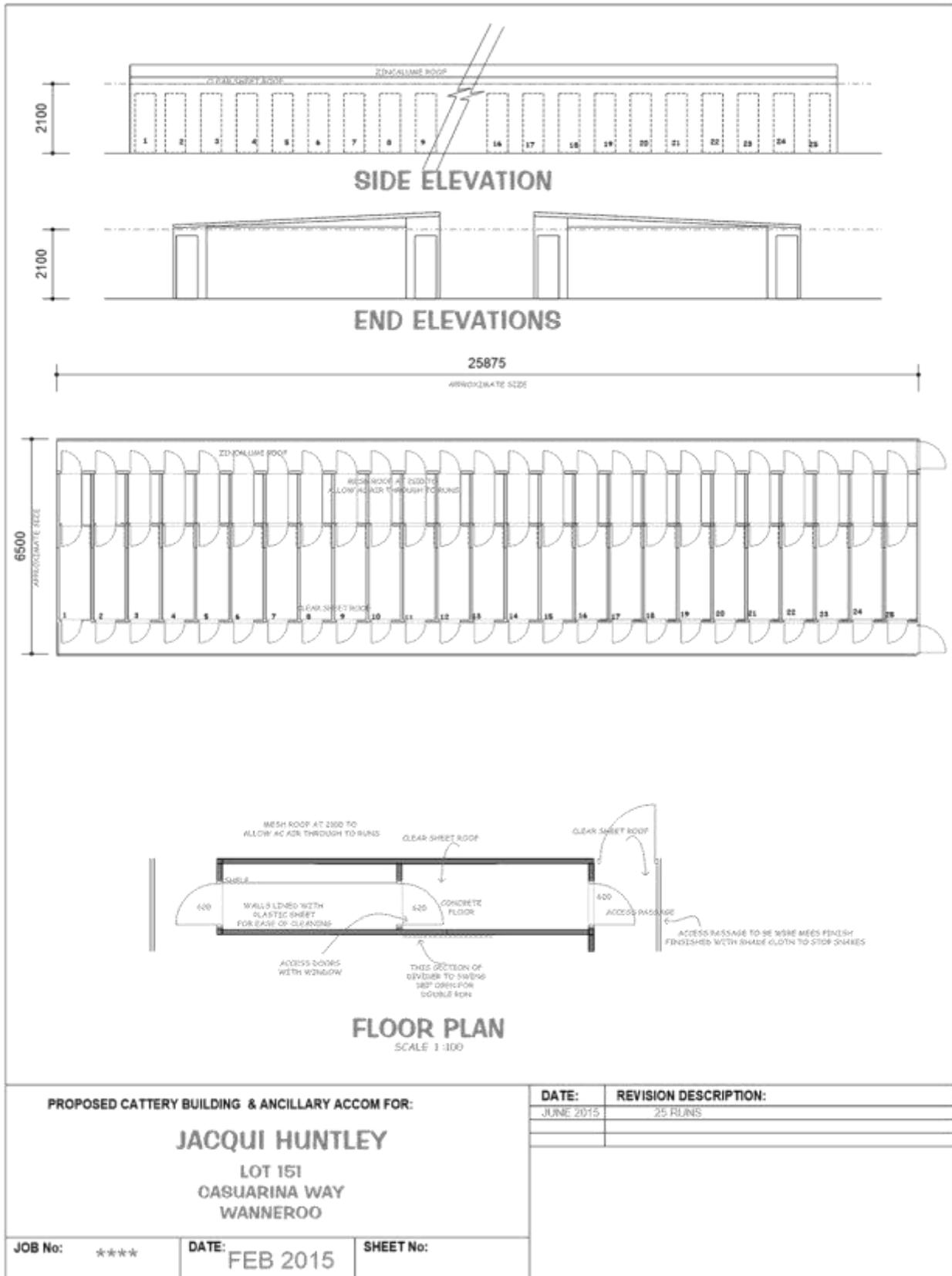


**CASUARINA WAY**

**SITE PLAN**

SCALE 1:500

PROPOSED CATTERY BUILDING & ANCILLARY ACCOM FOR:  <b>JACQUI HUNTLEY</b> LOT 151 CASUARINA WAY WANNEROO		DATE: 01/05/2015 08/08/2015	REVISION DESCRIPTION: revised layout for parking & proposed house 25 RUNS & OUT BUILDINGS
JOB No: ****	DATE: FEB 2015	SHEET No:	



Submission No.	Issue	Administration Response/Comment	Modification
<b>1.0</b>	<b>Anonymous Submitter</b>		
1.1	I strongly object to the proposed Cattery due to the increased traffic it will cause on our quiet street, which has no foot paths or street lights.	<p>As addressed within the report, the applicant has stated that there will be approximately 15 to 20 additional trips per week as a result of the Cattery. Based on Department of Planning transport data, a single dwelling is assumed to generate 8 vehicle trips per day on average. An additional 15 to 20 additional trips per week is considered to not be excessive compared to that of a standard dwelling. Therefore these additional trips are not considered to generate traffic to an extent that will impact the amenity of the surrounding Special Rural lots.</p> <p>The operating hours of the business is between 9am and 6pm and therefore trips should not occur during periods when street lights would be necessary.</p>	Noted.
1.2	I have concerns how the cats faecal matter will be disposed of.	<p>In regards to the disposal of the faecal matter, the applicant has stated the following:</p> <p><i>'The litter will be stored in large plastic vermin proof containers and disposed of weekly at the local dump. The litter is designed to be green friendly and is made of compressed wood pellets. Thus expanding up to seven times its size, as it does it dries out urine and faecal matter destroying bacteria and some viruses within minutes of becoming wet.</i></p> <p><i>The litter therefore can be managed on a weekly basis and no smells or contamination will arise. The litter is safe to go in to the ground and assists with enhancing the soil. However, we will take it to the local refuse tip.'</i></p> <p>Odour will be required to comply with the <i>Health Act 1911</i> at all times. If the application was approved and in the event that odour is emanated at a level that becomes a nuisance to local residents, Administration would investigate the odour levels and if</p>	Noted.

		substantiated, require a property owner to undertake appropriate measures to ensure compliance with the <i>Health Act 1911</i> .	
1.3	According to the research I have done catteries should be located in rural and industrial areas. This is a special rural area and most of these properties are only 2-2.5 acres, not leaving enough distance between the properties to avoid the noise and smell of the Cattery.	As detailed within the report, the Cattery does not meet the Special Provisions for Special Rural Zone No. 3 and therefore is not permitted within Special Rural Zone No. 3.  In the event that Council varies the Special Provisions, see point 1.2 regarding odour.	Noted.
<b>2.0</b>	<b>Keith Piper – 34 Casuarina Way, Wanneroo</b>		
2.1	Under District Planning Scheme No. 2 the land is within Special Rural Zone No. 3. The land is to be used for residential and/or horticultural purposes only.	As stated within the report, a Cattery is not considered to be a residential or horticultural purpose and therefore does not satisfy the Special Provisions applicable within Special Rural Zone No. 3.	Noted.
2.2	The special provisions state the keeping of livestock or poultry for commercial purposes is prohibited. Legal opinion indicates a cattery would fall within the keeping of livestock.	There is no definition of 'livestock' within the District Planning Scheme No. 2. The Australian Oxford Dictionary defines livestock as being 'farm animals regarded as an asset.' Generally, cats would not be considered farm animals. However it is considered that the intent of this provision is to not allow the keeping of animals of any kind for commercial purposes within this Special Rural Zone. Regardless, the Cattery is not considered a residential and/or horticultural purpose and therefore does not meet the Special Rural Provisions under Schedule 13.	Noted.
<b>3.0</b>	<b>Anonymous Submitter</b>		
3.1	We strongly oppose the submission for a cattery here for the reasons being: 1. The stench of cat excrement of 100 cats will not be easy to control and we believe it will be a huge problem	In the event that Council varies the Special Provisions for Special Rural Zone No. 3 as detailed within the report, see point 1.2 regarding odour.	Noted.
3.2	2. The noise made by 100 cats will not be easy to control either	As addressed within the report, any noise generated by the Cattery is required to comply with the <i>Environmental Protection (Noise)</i>	Noted.

		<p><i>Regulations 1997</i> at all times. The applicant has confirmed that the individual units will be sound proofed with the entrances facing away from the adjoining properties, mitigating the sound that may be caused by the cats. Furthermore, the individual units will face away from the adjoining properties.</p> <p>If the application was approved and in the event that noise is emanated at a level that becomes a nuisance to local residents, Administration would investigate the noise levels and if substantiated, require a property owner to undertake appropriate measures to ensure compliance with the <i>Environmental Protection (Noise) Regulations 1997</i>.</p>	
3.3	3. The increased traffic and also the loss of privacy will not be welcome.	See point 1.1.	Noted.