

1.0 INTRODUCTION

The Mariner Resort is located on Chapman Road Beresford. The resort was opened in 2009 and comprises 107 single and two storey accommodation units and associated guest facilities commensurate with a 4 star tourist accommodation resort of this nature. A management company (Broadwater Group) were appointed at inception to manage the resort and common property, on behalf of the Strata Company, and offer letting service to individual unit owners, in return for remuneration.

However it is important to note, the management company entity is not, a registered proprietor of any of the individual accommodation units within the complex.

In 2014, the owner of 71 units within the complex was placed into receivership, and the units subsequently offered for sale. Our client, Rinbac Pty Ltd, acquired the units from the receivers in March 2016.

Rinbac Pty Ltd is the owner and operator of numerous apartment hotel complexes and resorts throughout Australia and New Zealand, known collectively as the Waldorf Apartment Group. The Waldorf Apartment Group intends to commence operating on site as soon as necessary approvals are in place. The Waldorf Group intends to self manage their units and have formally advised the existing management company of their intention to remove their units from (their) management in May 2016.

In the period since the resort was opened, three (3) units have been removed from the management of the appointed management company and are now self-managed by the individual owner/s of those units.

Since acquisition, Waldorf Apartment Group has been approached by a number of other unit owners within the complex, requesting to be managed by the Waldorf Apartment Group. However this has been declined as it would be contrary to the strata company Management Statement and strata company by-laws, which expressly preclude management services being offered on a commercial basis by parties other than that appointed by the Strata Company (the current management company). See additional clarification Section 3.0.

2.0 PROPOSED CHANGE OF USE

All units which have been acquired by Rinbac Pty Ltd will continue to function as accommodation units within the tourist resort, with the exception of the unit's subject of this application. No other use will alter, and no change to approved length of tenure restrictions, is sought.

Overall management of the Resort, including all common property and facilities contained within common property will remain the responsibility of the management company (Broadwater Group) appointed by the Strata Company, as is required.

Lot 68 (Complex Unit 168)

Existing Use: Single storey ground floor one (1) bedroom accommodation apartment.

Proposed Use: Tourist Development (Guest Lounge).

Refer Landwest Plan set 16103GL dated 20/04/2016, for detail of proposed Guest Lounge Facility.

No change to compliant development provisions considered when original planning approval/s issued.

The guest lounge will provide breakfast facilities, snack and tea/coffee facilities, and daily newspapers for guests in Waldorf apartments. Opening hours will be 6:30am through to 9:00pm daily.

No structural changes are required within the apartment to accommodate the proposed use. The unit will be subject to upgraded fit out only to ensure facilities are commensurate with guest expectations. Standards for universal access and mobility will be required to be adhered to. Appropriate signage will be required in accordance with legislative requirements. Predominant access will be via the courtyard eastern entrance to the apartment; although an alternative secondary access via the building lobby is in-situ.

Separate Environmental Health approval/s will be required under applicable Food Standards legislation to address matters such as impervious wall and floor finishes, fixtures, fittings and equipment, potable hot water, waste disposal, storage of rubbish, cleaning and chemical storage areas. No food preparation will be undertaken on site and therefore fit out requirements are minimal and generally cosmetic in nature.

Lot 17 (Complex Unit 117)

Existing Use: Two storey three (3) bedroom accommodation apartment.

Proposed Use: Tourist Development (Facilities Management).

Refer Landwest Plan set 16103FM dated 20/04/2016, for detail of proposed Facilities Management unit. No change to compliant development provisions considered when original planning approval/s issued.

The Facilities Management unit will be the residence for the onsite managers employed by the Waldorf Apartment Group. The onsite manager will be responsible only for matters related to Waldorf Group Apartments eg. meet and greet guests on arrival and departure, information provision and instruction regarding resort facilities and rules, minor internal unit maintenance, cleaning, emergency contact, and co-ordination with the appointed other resort manager. Reservation/marketing and administration/accounting will be managed internally by Waldorf Western Australia's head office, not on site.

No structural changes are required within the apartment to accommodate the proposed use. Appropriate signage will be required in accordance with legislative requirements. Predominant access will be via the main eastern entrance to the apartment, although an alternative secondary access via the apartment courtyard can be achieved where required.

3.0 MANAGEMENT STATEMENT, BY-LAW AND OTHER AGREEMENTS

The Management Statement attached to the Strata Plan was prepared as a condition of the Western Australian Planning Commission (WAPC) approval relating to the original strata subdivision.

Particular clauses in the management statement address matters relating to management of units within the strata plan, and the nature of agreements which apply.

The attached advice from Moharich & More Solicitors, demonstrates that the development application is not contrary to the provisions of the management statement or the agreements or requirements referred to in the management statement. Explicitly, the Management Statement makes provision for self management of individual units.

The Waldorf Apartment Group does not intend to, nor is able, by virtue of the current Caretaking and Letting Agreements between the Strata Company and management company (Broadwater Group), to offer commercial services to the Strata Company to manage units or resort facilities, or to occupy common property. The existing management company appointed by the Strata Company will remain in place, regardless of 81 units acquired by Waldorf being removed from management, with other units already under self management.

The Waldorf Apartment Group will not conduct a commercial letting or caretaking business that could be contended to be in competition with the current management company which provides this service exclusively to both the Strata Company and individual unit owners, in return for remuneration. The Waldorf Group will not acquire any responsibility for any caretaking or letting services for the Strata Company or other unit owners and will have the same obligation to the Strata Company in terms of unit entitlement and levied contributions, as all other owners in the Strata Company.

The *Strata Titles Act 1985* (s11) states that there is an implied easement in favour of the proprietor of lot/s for the passage or provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, heating oil and other services including telephone, radio and television services, through or by means of any pipes, wires, cables or ducts for the time being existing in the land comprising the parcel to the extent to which those pipes, wires, cables or ducts are capable of being used in connection with the enjoyment of that lot. Further, a proprietor, mortgagee in possession or occupier of a lot shall not do any thing or permit anything to be done on or in relation to that lot so that the passage or provision is interfered with.

It is noted therefore that the registered owner or occupier of any individual lot/s which contain service infrastructure for the benefit of other units, must not interfere with the right of access to the service infrastructure for rationalisation of services as required. In the event that access is prohibited, the Strata Company is entitled to facilitate access by its agents or contractors to that lot/s for that purpose. The Strata Titles Act and accompanying by-laws makes provision for how such disputes are managed, and are outside realms of the planning approvals process.

The Council of the Strata Company has issued correspondence (enclosed) confirming they have no objection to the use of Lots 17 & 68 for the uses proposed, and they are of the opinion that the proposed uses and self management does not contravene strata by-laws.

OTHER

Clause 64 of the Deemed Provisions (Schedule 2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* is relevant to advertising of proposals. Particularly clause 64(1) –

- (1) An application for development approval must be advertised under this clause if the proposed development –
 - (a) relates to the extension of a non-conforming use; or
 - (b) relates to a use if –
 - (i) the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; and

- (ii) the local government determines that the use may be consistent with the objective of that zone and that notice of the application should be given; or
- (c) does not comply with a requirement of this Scheme; or
- (d) is a development for which the local government requires a heritage assessment to be carried out under clause 11(1); or
- (e) is of a type that this Scheme requires to be advertised.

There is nothing in LPS1 relating to the proposed use of the two (2) units of Tourism Development (Guest Lounge and Facilities Management) within the Tourism zone which could be contended to fall within (1)(e), or circumstance which may cause the local authority to choose to advertise the proposal.

Any apparent matters of contention are of a commercial nature only, and are appropriately able to be addressed by legislation pertaining to the operation of, and obligations of the applicable Strata Company. These matters do not impact on the ability of the local authority to determine the application for proposed Change of Use without need to give notice.

City of Greater Geraldton Development Application
Prepared for Rinbac Pty Ltd
Project 16103 April 2016 v 1

CONCLUSION

In conclusion, the proposed Change of Use application is compliant with the town planning scheme and uses which can be contemplated in the Tourism zone. The proposed uses will complement the facilities provided within the resort for Waldorf Apartment Group guests, and provide facilities for self management of the units owned by Rinbac Pty Ltd. The uses do not jeopardise the overall use of and operation of the Resort, or the objectives of the Tourism zone in which the development site is located.

It is demonstrated in supporting information attached to the application, that the Waldorf Apartment Group self management model is not contrary to the provisions of the Management Statement, strata company by-laws, or any letting or caretaking agreements. Further, it is noted the Strata Company is not permitted by its onw by-laws to grant approval to any other person or entity, to conduct a business that is similar to that offered by the appointed caretaker/manager (the current management company). As such, they (the Strata Company) have offered no objection to the proposed Change of Use and proposed self management by the Waldrof Group.

Please do not hesitate to contact our office for any further queries regarding the application.

Yours faithfully



Gail Bermingham

enc

Enclosures

1. Local authority application form
2. Application fee
3. Four (4) copies of Landwest Plan Set 16103.
4. Strata Plan 50998
5. Management Statement attached to Strata Plan 50998
6. Moharich & More, Solicitor, correspondence
7. Exclusive Strata Management, correspondence
8. Settlement Statement

-  - SUBJECT BOUNDARY
 - POOL FENCE
 - WALDORF GERALDTON ACCOMMODATION UNIT (NO CHANGE OF USE)
 - PROPOSED MANAGERS RESIDENCE
 - PROPOSED GUEST LOUNGE (SUBJECT TO APPROVAL)
 - STRATA LOTS OWNED BY OTHERS

NOTES:

1. Development Approval sought for Change of Use to Lot 17 (Resort Unit No. 117) from Accommodation to Tourist Development - Facilities Management.
2. The plan is prepared for the purposes of obtaining planning approval from the local authority and should not be used for any other purpose. No liability will be accepted where the plan is used for purposes other than that indicated, including marketing of the proposed lots.
3. Plan Set compiled from existing building information.
4. Separate application for Lot 68 (Resort Unit 168).



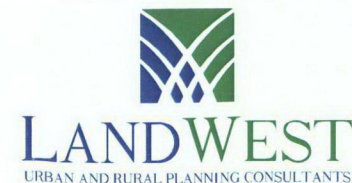
TITLE:
 Site Plan - "Waldorf Geraldton Serviced Apartments"
 Development Application - Change of Use
 Tourist Development (Facilities Management)
 Lot No. 17 (Resort Unit No 117) on Strata Plan 50998

CLIENT:
 Rinbac Pty Ltd

CERTIFICATE OF TITLE(S) :
 2719-1

DATE LAST MODIFIED:
 21/04/2016

SCALE: 1:500 @A3



8 Anzac Terrace Geraldton WA 6530
 PO BOX 1597 Geraldton WA 6531
 Email : info@landwest.net.au
 Phone : (08) 9965 0550

REV: DATE: DETAILS: BY: APPROVED:

APPROVED:

DESIGNED: GMB DRAWN: DSH

PLAN: 16103-FM1

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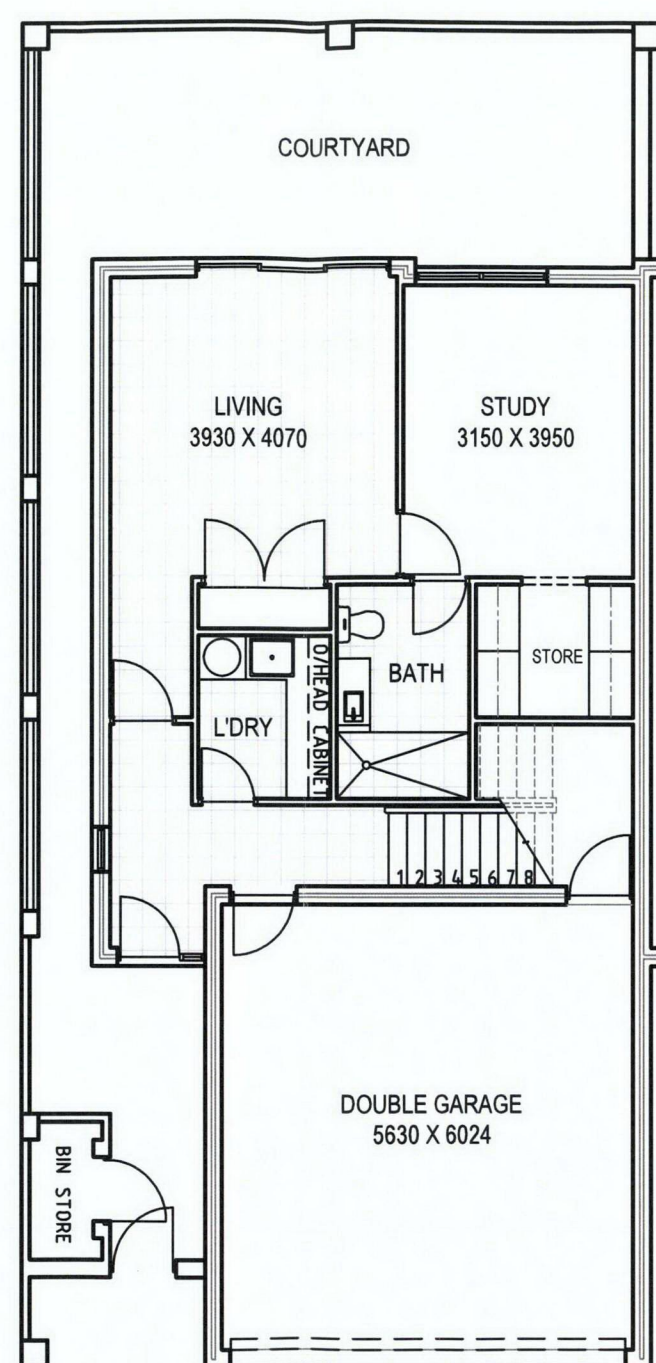
NOTES:

1. Development Approval sought for Change of Use to Unit 17 (Resort Unit No. 117) from Accommodation to Tourist Development - Facilities Management.
2. No changes to elevations, structural or electrical required.
3. The plan is prepared for the purposes of obtaining planning approval from the local authority and should not be used for any other purpose. No liability will be accepted where the plan is used for purposes other than that indicated, including marketing of the proposed lots.
4. Plan set compiled from existing building information Ref. A2.08 Floor Plans Block F.

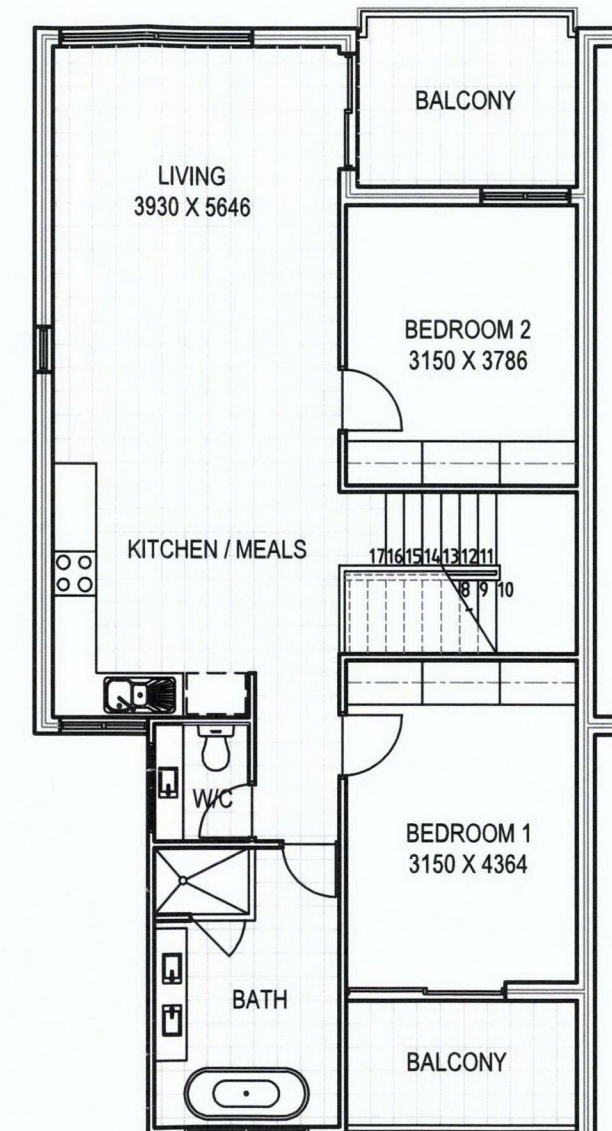
DEVELOPMENT PROVISIONS	MINIMUM REQUIREMENTS	ACTUAL PROVISION
CITY OF GREATER Geraldton ZONING	TOURISM	
PROPOSED USE CLASS	TOURIST DEVELOPMENT - (Facilities Management)	
USE CLASS PERMISSION as depicted in Table 12 Zoning Table	P	P
PLOT RATIO	Tourism - Variable R80 - 1.0	✓
FRONT SETBACK	R80 - 1m	✓
SIDE SETBACKS	Refer Tables 2a and 2b of R-Codes	✓
REAR SETBACKS	Refer Tables 2a and 2b of R-Codes	✓
LANDSCAPING	Variable	✓
MIN CAR PARKING	1 per unit	✓



STREETVIEW UNIT 117
April 2016



GROUND FLOOR PLAN
(NO STRUCTURAL CHANGE)



FIRST FLOOR PLAN
(NO STRUCTURAL CHANGE)

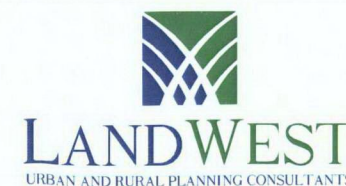
TITLE: Development Application - Change of Use
Tourist Development
(Facilities Management)
Lot No. 17 (Resort Unit No. 117) on Strata Plan 50998
"Waldorf Geraldton Serviced Apartments"

CLIENT:
Rinbac Pty Ltd

CERTIFICATE OF TITLE(S) :
2719-1

DATE LAST MODIFIED:
22/04/2016

SCALE: 1:100 @A3



8 Anzac Terrace Geraldton WA 6530
PO BOX 1597 Geraldton WA 6531
Email : info@landwest.net.au
Phone : (08) 9965 0550

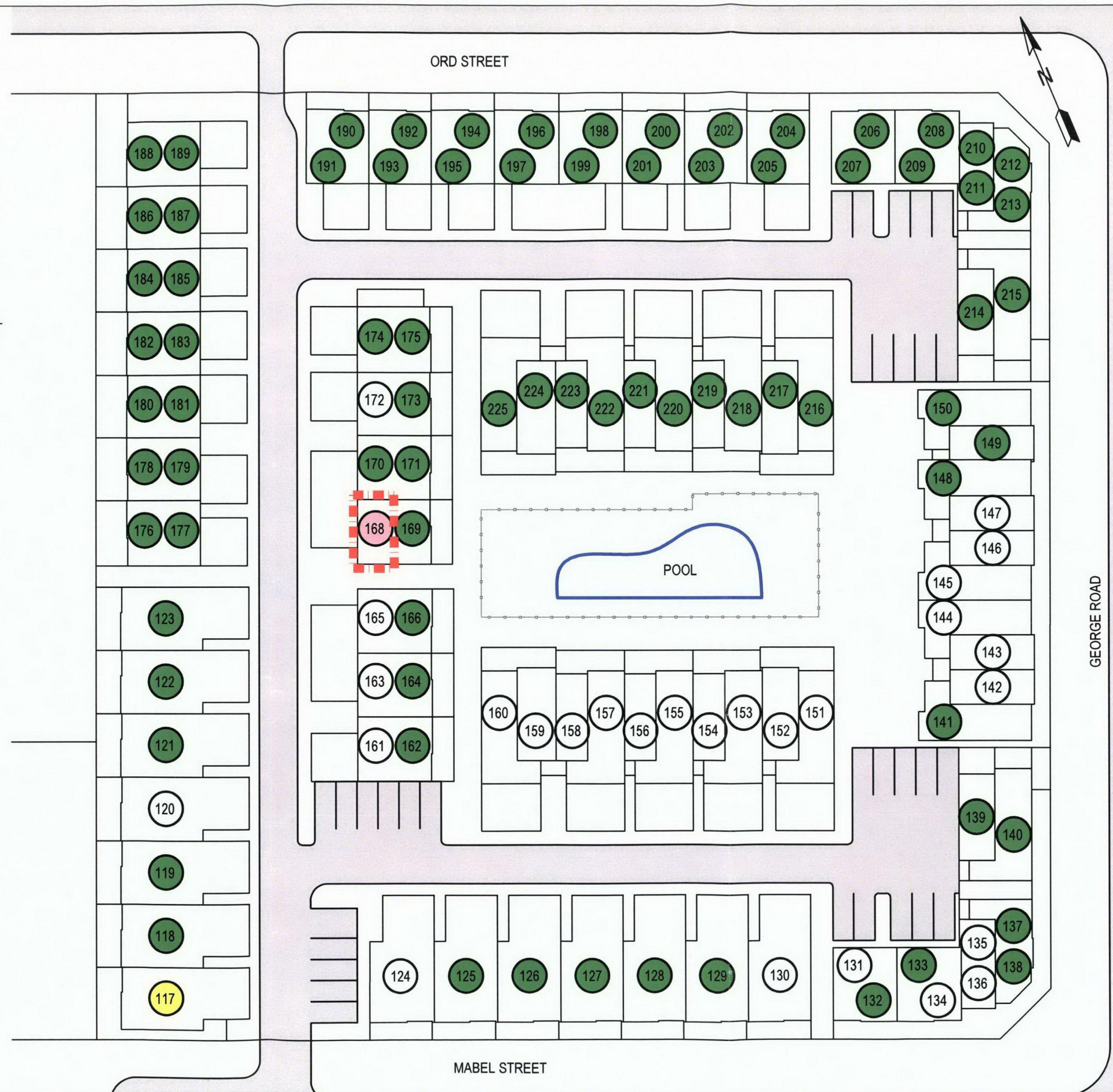
REV:	DATE:	DETAILS:	BY:	APPROVED:
APPROVED:				
DESIGNED: GMB		DRAWN: DSH		
PLAN: 16103-FM2				

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-  - SUBJECT BOUNDARY
 - POOL FENCE
 - WALDORF GERALDTON ACCOMMODATION UNIT (NO CHANGE OF USE)
 - PROPOSED WALDORF GUEST LOUNGE
 - PROPOSED FACILITIES MANAGEMENT (SUBJECT TO APPROVAL)
 - STRATA LOTS OWNED BY OTHERS

NOTES:

1. Development Approval sought for Change of Use Unit 68 (Resort Unit No. 168) from Accommodation to Tourist Development - Guest Lounge.
2. The plan is prepared for the purposes of obtaining planning approval from the local authority and should not be used for any other purpose. No liability will be accepted where the plan is used for purposes other than that indicated, including marketing of the proposed lots.
3. Plan set compiled from existing building information.
4. Separate application for Lot 17 (Resort Unit 117).



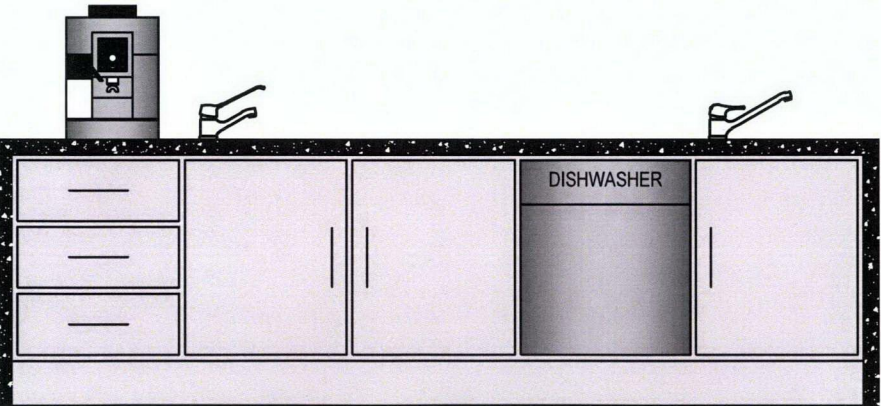
TITLE: Site Plan "Waldorf Geraldton Serviced Apartments" Development Application - Change of Use Tourist Development (Guest Lounge) Lot No. 68 (Resort Unit No 168) on Strata Plan 50998		CLIENT: Rinbac Pty Ltd		 LANDWEST URBAN AND RURAL PLANNING CONSULTANTS	8 Anzac Terrace Geraldton WA 6530 PO BOX 1597 Geraldton WA 6531 Email : info@landwest.net.au Phone : (08) 9965 0550		REV: DATE: DETAILS:		BY: APPROVED:	
CERTIFICATE OF TITLE(S) : 2733-201 & 2733-202		DATE LAST MODIFIED: 21/04/2016			APPROVED:		DESIGNED: GMB DRAWN: DSH		PLAN: 16103-GL1	

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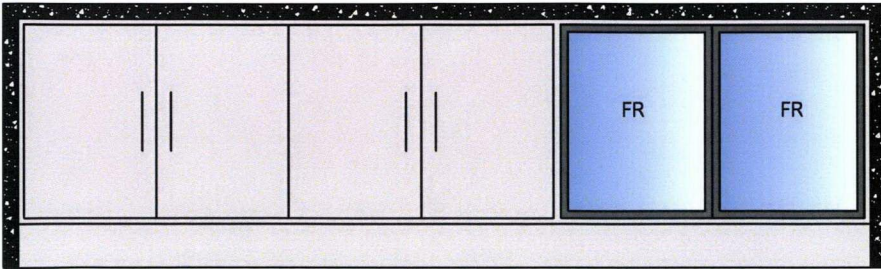
SCALE: 1:500 @A3

NOTES:

1. Development Approval sought for Change of Use to Unit 68 (Resort Unit No. 168) from Accommodation to Tourist Development - Guest Lounge.
2. No changes to elevations, structural or electrical required.
3. All proposed interior changes as per Broadwater Refurbishment Plan Set Revision 01 (correct at 08/04/2016) by Crothers Construction Pty Ltd.
4. Removal of existing fixed furniture/cabinetry by builder.
5. Kitchenette and breakfast bar measurements subject to final measure and install.
6. Sitting Room furniture indicative only.
7. The plan is prepared for the purposes of obtaining planning approval from the local authority and should not be used for any other purpose. No liability will be accepted where the plan is used for purposes other than that indicated, including marketing of the proposed lots.
8. Plan set compiled from existing building information (Plan A2.12 Floor Plans Block H).
9. Proposed internal fit out indicative only and derived from Crothers Construction Refurbishment Plan Set Revision 01.



PROPOSED KITCHENETTE ELEVATION
INDICATIVE ONLY - NOT TO SCALE

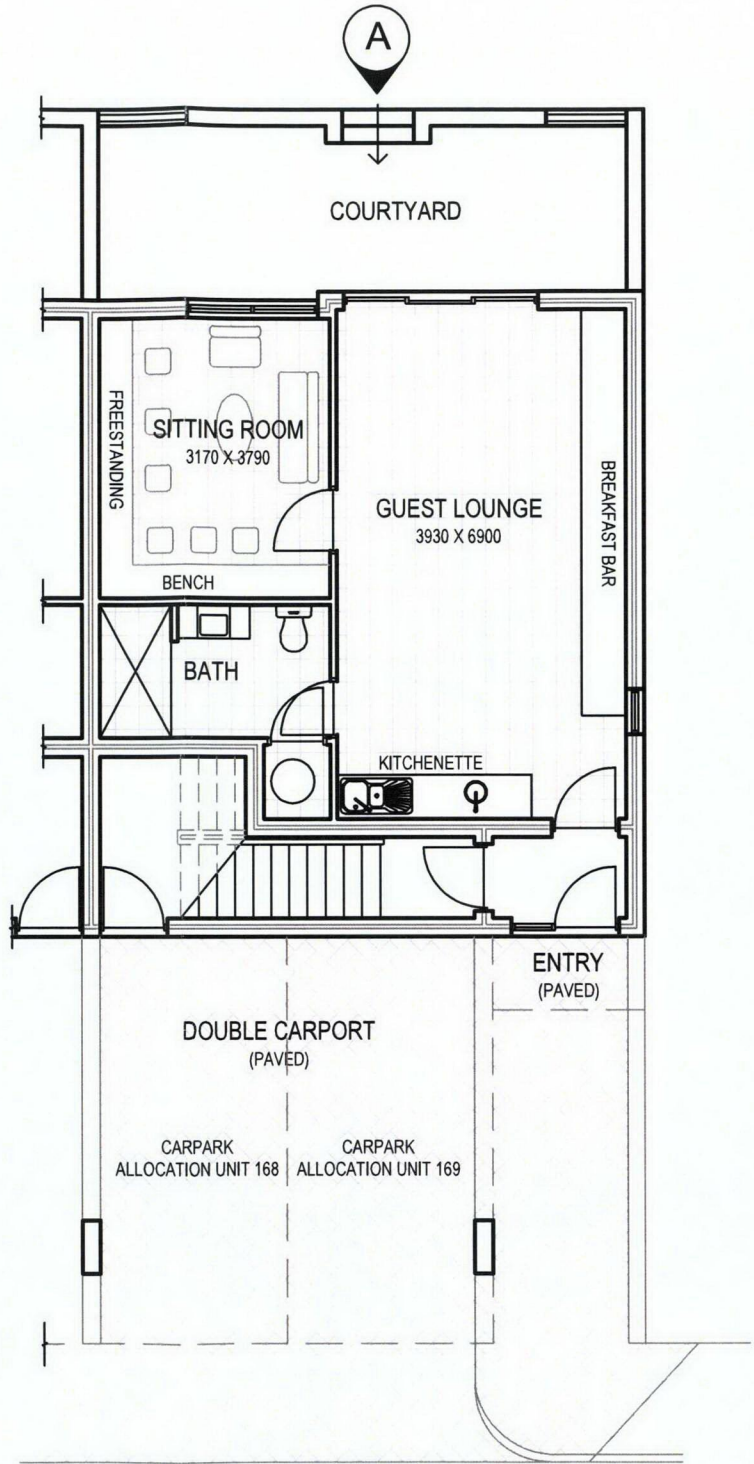


PROPOSED BREAKFAST BAR ELEVATION
INDICATIVE ONLY - NOT TO SCALE

DEVELOPMENT PROVISIONS	MINIMUM REQUIREMENTS	ACTUAL PROVISION
CITY OF GREATER Geraldton ZONING	TOURISM	
PROPOSED USE CLASS	TOURIST DEVELOPMENT - (GUEST LOUNGE)	
USE CLASS PERMISSION as depicted in Table 12 Zoning Table	P	P
PLOT RATIO	Tourism - Variable R80 - 1.0	✓
FRONT SETBACK	R80 - 1m	✓
SIDE SETBACKS	Refer Tables 2a and 2b of R-Codes	✓
REAR SETBACKS	Refer Tables 2a and 2b of R-Codes	✓
LANDSCAPING	Variable	✓
MIN CAR PARKING	1 per unit	✓



REAR VIEW
APRIL 2016



PROPOSED GUEST LOUNGE
WALDORF GERALDTON SERVICED APARTMENTS
UNIT NO. 168

TITLE:
Development Application - Change of Use
Tourist Development (Guest Lounge)
Lot No. 68 (Resort Unit No. 168) on Strata Plan 50998
"Waldorf Geraldton"

CLIENT:
Rinbac Pty Ltd

CERTIFICATE OF TITLE(S) :
2733-201 & 2733-202

DATE LAST MODIFIED:
21/04/2016

SCALE: 1:100 @A3



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PO BOX 1597 Geraldton WA 6531
Email : info@landwest.net.au
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APPROVED:				
DESIGNED:	GMB	DRAWN:	DSH	
				PLAN: 16103-GL2

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