

# **CONSTITUTION & MANAGEMENT RULES: NO.1 HARBOUR ARCH BODY CORPORATE**

**Substituted, amended and added to in terms of section 10 of the  
Sectional Titles Schemes Management Act 8 of 2011 (as amended from time to time)**



a Body Corporate established in terms of section 36 of the Sectional Titles Act 95 of 1986,  
read with section 2(1) of the Sectional Titles Schemes Management Act 8 of 2011

## 1. **PRELIMINARY**

In terms of section 10 of the STSMA the Developer may impose registrable conditions and substitute the prescribed management rules contained in Annexure 1 to the STSMA Regulations to the extent prescribed, when submitting an application for the opening of a sectional title register.

The Rules set out in this Constitution substitute, amend and add to the prescribed management rules provided for in Annexure 1 of the STSMA Regulations.

The Scheme shall be established as a mixed-use development as contemplated in section 32(2)(a) of the STA.

The Scheme shall comprise 4 (Four) Building Components:

- (i) Retail Component;
- (ii) Residential Component 1 (comprising various Sections);
- (iii) Residential Component 2 (comprising various Sections); and
- (iv) Parking Component

as more fully detailed in Annexure A and Annexure B hereto.

Each such Building Component is part of the Body Corporate and do not operate separately from the Body Corporate.

The *No.1 Harbour Arch Body Corporate* is hereby constituted in terms of section 36(2) of the STA read with section 2(1) of the STSMA and shall come into existence simultaneously upon registration of the Sectional Plan in the deeds office.

All Members of the *No.1 Harbour Arch Body Corporate* shall automatically become members of the Harbour Arch Property Owners Association NPC ("HAPOA") and shall at all times be bound by the provisions of this Constitution and the memorandum of incorporation of HAPOA ("HAPOA MOI").

This Constitution shall at all material times be subject to the HAPOA MOI, its design guidelines and code of conduct issued in terms thereof, as amended from time to time. Should there at any time be a conflict between the provisions of this Constitution and those contained in the HAPOA MOI, the design guidelines and code of conduct issued in terms thereof, then the provisions of the HAPOA MOI, the design guidelines and the code of conduct issued in terms thereof shall prevail.

This Constitution shall at all times be subject to the STA and the STSMA and, save to the extent that the Developer and/or the *No.1 Harbour Arch Body Corporate* is entitled to and/or do, from time to time, substitute, amend and/or add to the Rules. Should there at any time be a conflict between the provisions of this Constitution and the provisions of the STA and/or the STSMA, the provisions of the STA and/or the STSMA (as the case may be) shall prevail.

## 2. INTERPRETATION

In the interpretation of this Constitution, unless the context otherwise indicates:

- 2.1. clause headings are for convenience only and shall not be used in its interpretation;
- 2.2. an expression which denotes:
  - 2.2.1. any gender includes the other genders;
  - 2.2.2. a natural person includes a juristic person and *vice versa*;
  - 2.2.3. the singular includes the plural and *vice versa*;
- 2.3. the following expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings:
  - 2.3.1. **“Auditors”** means the auditors of the Body Corporate from time to time;
  - 2.3.2. **“Administration Fund”** means a fund to be established and maintained by the Body Corporate to cover annual shared operating costs of the Body Corporate, as envisaged in section 3(1)(a) of the STSMA;
  - 2.3.3. **“Body Corporate”** means the *No.1 Harbour Arch Body Corporate* to be established in terms of the STA and the STSMA upon registration of the Sectional Plan in the deeds office;
  - 2.3.4. **“Building(s)”** means the building or buildings to be erected on the Subdivided Property and forming part of the Scheme;
  - 2.3.5. **“Building Component(s)”** means each part of the Building(s) comprising those respective Sections and Exclusive Use Areas which constitute the Retail Component, the Residential Component 1, the Residential Component 2 and the Parking Component, as more fully detailed in Annexure A and Annexure B hereto;
  - 2.3.6. **“Business Day”** means any day other than a Saturday, Sunday or official public holiday in the Republic;
  - 2.3.7. **“Chairperson”** means the chairperson of the Trustees of the Body Corporate;
  - 2.3.8. **“Common Property”** means the Shared Common Areas and the Private Common Areas, collectively;
  - 2.3.9. **“Companies Act”** means the Companies Act 71 of 2008;
  - 2.3.10. **“Conduct Rules”** means the conduct rules of the Body Corporate as may be issued, substituted, amended, repealed and/or added to from time to time, subject to the provisions of section 10 of the STSMA;
  - 2.3.11. **“the/this Constitution”** means this document containing the terms of establishment of the *No.1 Harbour Arch Body Corporate* and the Rules, and includes any and all annexures hereto;
  - 2.3.12. **“CSOS”** means the Community Schemes Ombud Service established in terms of the Community Schemes Ombud Service Act No. 9 of 2011;

- 2.3.13. **“Developer”** means Harbour Arch Investment Holdings Proprietary Limited (registration number 2001/024389/07), a private company with limited liability duly incorporated in terms of the laws of the Republic, or its nominee(s) or agent(s) undertaking the Scheme in respect of the Subdivided Property, including its successors-in-title or assigns;
- 2.3.14. **“Development / Harbour Arch Precinct”** means the 5.8 hectare new urbanism mixed-use development, to be established on the Property, in the Cape Town Foreshore situate between the N1 Motorway, Christiaan Barnard Street and the N2 Motorway, including any future expansion(s), development(s) and/or extension(s) thereof;
- 2.3.15. **“Exclusive Use Areas”** means the exclusive use storeroom(s) and/or balcony(ies) and/or terrace(s), and/or garden(s) and/or parking bay(s) and/or other parts of the Common Property (as the case may be) so conferred upon the registered owner for the time being of a Section in terms of section 27 of the STA;
- 2.3.16. **“Financial Year”** means the financial year of the Body Corporate which shall run from the first day of March of each year to the last day of February of the following year, unless otherwise decided by the Members at a general meeting;
- 2.3.17. **“General Budget”** means the estimated total income expected to be derived from all Member contributions and the estimated total expenditure expected to be incurred in respect of all shared costs and expenses in relation to the Building(s) and the Common Property during the course of any particular Financial Year;
- 2.3.18. **“HAPOA”** means the Harbour Arch Property Owners’ Association, a non-profit company with registration number: 2023/613813/08, incorporated in terms of the laws of the Republic;
- 2.3.19. **“HAPOA MOI”** means the memorandum of incorporation of the HAPOA, including but not limited to its design guidelines and the code of conduct, as may be substituted, amended, repealed and/or added to from time to time;
- 2.3.20. **“in writing”** means written or printed or partly one and partly another, and other modes of representing or producing words in a visible and legible form;
- 2.3.21. **“juristic person”** includes a company or close corporation or a foreign company (each as defined in the Companies Act), a body corporate, a partnership or an association, a trust (as defined in the Trust Property Control Act 57 of 1988), and a trust established outside of the Republic;
- 2.3.22. **“Levy/Levies”** means the contribution(s) payable by a Member to the Body Corporate in terms of section 3 of the STSMA;
- 2.3.23. **“Managing Agent”** any person appointed by the Body Corporate as an independent contractor to undertake any of the management functions of the Body Corporate, as described in Rule 12 below;
- 2.3.24. **“Member”** means a member of the Body Corporate, being every registered owner of a Section;
- 2.3.25. **“Office”** means the registered office of the Body Corporate from time to time;

- 2.3.26. **“Ordinary Resolution”** means a resolution:
- a. passed by at least 50% (fifty percent) of the Members of the Body Corporate, reckoned in value, entitled to cast a vote in respect of the specific matter to be voted on, who are present or represented by proxy or by a representative recognized by law at a special or general meeting of the Body Corporate of which the required written notice, specifying the proposed ordinary resolution, has been given, or at any adjournment thereof as envisaged in Rule 11.5.3; alternatively
  - b. agreed to in writing by at least 50% (fifty percent) of the Members of the Body Corporate, entitled to cast a vote in respect of the specific matter to be voted on, calculated in value of all votes;
- 2.3.27. **“Parking Component”** means that part of the Building(s) comprising parking bays/areas (and may also include storerooms, refuse rooms and/or plant rooms) situated in the locations as shown on Annexure B to this Constitution, portions of which Parking Component are allocated for use by Members of the Residential Component 1 in accordance with Rule 15, irrespective that the Parking Component or parts thereof are or may be denoted as Exclusive Use Areas linked to a particular Section(s) or Private Common Areas of a specific Building Component;
- 2.3.28. **“Parking Costs”** means the operational and maintenance (running) costs of the Parking Component, which includes but shall not necessarily be limited to (i) municipal rates and other charges, (ii) electricity, (iii) cleaning, (iv) maintenance of mechanical equipment and parking equipment, (v) security, (vi) access control, and (vii) a market related management fee;
- 2.3.29. **“Participation Quotas”** means the quota applied to all Members in order to determine:
- 2.3.29.1. the liability of such Member(s) to contribute to the costs of the Body Corporate; and
  - 2.3.29.2. the value of any vote cast by such Member(s) at any meeting by the Body Corporate in accordance with the formula set out below:
 

the floor area of a particular Section, exclusive of any Exclusive Use Area(s) (where applicable), in the Building(s) forming part of the Scheme in relation to the total floor area of all Sections, exclusive of all Exclusive Use Areas (where applicable), in the Building(s) and expressed as a percentage;
- 2.3.30. **“PMR”** means prescribed management rules contained in Annexure 1 to the STSMA Regulations;
- 2.3.31. **“Private Common Areas”** means those parts of the Scheme which do not form part of a Section and in respect of which the use of such common areas is allocated exclusively to either the Residential Component 1, the Residential Component 2, the Retail Component and/or the Parking Component (as the case may be);
- 2.3.32. **“Property”** means Erf 178316, Cape Town, in the City of Cape Town, Province of the Western Cape, as depicted on the Site Plan annexed hereto as Annexure A;
- 2.3.33. **“Registered Bondholder”** means any holder of a mortgage bond over a Section of whom the Body Corporate and/or the Building Components, as the context may indicate, have been notified in writing as contemplated in section 13(1)(f) of the STA;
- 2.3.34. **“Registrar”** means a registrar of deeds as defined in the Deeds Registries Act No 47 of 1937 and whose offices are situated in the registration district of the Scheme;
- 2.3.35. **“Republic”** means the Republic of South Africa;

- 2.3.36. **“Residential Component 1”** means that part of the Building(s) comprising of the various residential Sections, as well as the Exclusive Use Areas (if any) allocated to and/or used by these residential Sections and the Private Common Areas (if any), as indicated in Annexure B to this Constitution;
- 2.3.37. **“Residential Component 2”** means that part of the Building(s) comprising of the various residential Sections, as well as the Exclusive Use Areas (if any) allocated to and/or used by these residential Sections and the Private Common Areas (if any), as indicated in Annexure B to this Constitution;
- 2.3.38. **“Reserve Fund”** means, as the context may indicate, a fund to be established and maintained by the Body Corporate to cover the cost of future maintenance and repair of the Common Property , as envisaged in section 3(1)(b) of the STSMA;
- 2.3.39. **“Retail Component”** means that part of the Building(s) comprising of the various retail sections as well as the Exclusive Use Areas (if any) allocated to and/or used by the retail Sections and the Private Common Areas (if any), as indicated in Annexure B to this Constitution;
- 2.3.40. **“Rules”** means the management rules of the Body Corporate as set out in this Constitution, and as may be issued, substituted, amended, repealed and/or added to from time to time, subject to the provisions of section 10 of the STSMA;
- 2.3.41. **“Scheme”** means the sectional title scheme, known as *No.1 Harbour Arch* (collectively comprising SS132/2023, SS133/2023, SS134/2023, SS135/2023, SS136/2023), situate at Christian Barnard Street, Foreshore, Cape Town, established by the Developer on the Subdivided Property;
- 2.3.42. **“Section”** means a Section in the Building(s), excluding the Common Property and Exclusive Use Areas, being a “primary section” as envisaged in section 2(m) of the STSMA Regulations;
- 2.3.43. **“Sectional Plan”** means the sectional plan(s) applicable to the Scheme as approved by the Surveyor General and includes the plans filed with the sectional title scheme in terms of section 25(2)(a) of the STA;
- 2.3.44. **“Shared Common Areas”** means those parts of the Scheme which do not form part of a Section and in respect of which the use thereof is shared by all Members of the Body Corporate, i.e. by all Members of all the Building Components;
- 2.3.45. **“Special Contribution(s)”** means any contribution levied, on authority of a Trustee resolution, by the Body Corporate on the Members under section 3(10) of the STSMA other than contributions which arise from the approval of the estimate of income and expenditure of the Body Corporate at an annual general meeting of the Body Corporate, determined to be a contribution to be levied on the Members during the current Financial Year;
- 2.3.46. **“Special Resolution”** means a resolution:
- a. passed by at least 75% (seventy five percent) of the Members of the Body Corporate, reckoned in value, who are present or represented by proxy or by a representative recognized by law at a special or general meeting of the Body Corporate of which the required written notice, specifying the proposed special resolution, has been given, or at any adjournment thereof as envisaged in Rule 11.5; alternatively
  - b. agreed to in writing by at least 75% (seventy five percent) of Members, entitled to cast a vote in respect of the specific matter to be voted on, calculated in value of all votes;

- 2.3.47. **“STA”** means the Sectional Titles Act No 95 of 1986;
- 2.3.48. **“STSMA”** means the Sectional Titles Schemes Management Act No 8 of 2011;
- 2.3.49. **“STSMA Regulations”** means the regulations promulgated under the STSMA;
- 2.3.50. **“Subdivided Property”** means the property on which the Scheme is situate, being a portion of the Property, the location of which is indicated on the Site Plan annexed here to as Annexure A;
- 2.3.51. **“Trustee”** means, subject to sections 6(1) and 6(2) of Annexure 1 to the STSMA Regulations, any one of the Members of the Body Corporate or other persons elected as such by the Members ;
- 2.3.52. **“Unanimous Resolution”** means:
- a. passed by all the Members of the Body Corporate, calculated in value and in number, entitled to cast a vote in respect of the specific matters to be voted on, who are present or represented by proxy or by a representative recognized by law at a special or general meeting of the Body Corporate of which the required written notice, specifying the proposed unanimous resolution, has been given, or at any adjournment thereof as envisaged in Rule 11.5; alternatively
  - b. agreed to in writing by all the Members of the Body Corporate entitled to vote in respect of the specific matter to be voted on, calculated in value and in number of all votes;
- 2.4. any reference to ‘day(s)’ or ‘complete calendar day(s)’ shall refer to any day of the week. When any number of days is prescribed in this document, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 2.5. should any provision or definition in this Rule 2 be a substantive provision conferring a right or imposing an obligation on any person then, notwithstanding that it is only a definition, effect shall be given to that provision as if it were a substantive provision in this Constitution;
- 2.6. any schedules or annexures to this Constitution shall be deemed to be incorporated in and form part of this Constitution, unless expressly stated otherwise;
- 2.7. where any term is defined in a particular Rule and not in this Rule 2, that term shall bear the meaning ascribed to it in that Rule wherever it is used in this Constitution;
- 2.8. any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the date of registration of this Constitution, and as amended, re-enacted or substituted from time to time, and includes any regulations promulgated pursuant thereto or issued in terms thereof;
- 2.9. where figures are referred to in numerals and words, if there is a conflict between the two, the words shall prevail unless the context indicates otherwise or the party supporting the accuracy of the numeracy over the words is able to prove, on a balance of probabilities, that the numerals are correct;
- 2.10. any reference to days (other than a reference to Business Days), months or years shall be a reference to calendar days, calendar months or calendar years (as the case may be);



- 2.11. the use of the word “including” followed by a specific example(s) shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example(s);
- 2.12. the rule of construction that this Constitution shall be interpreted against the person responsible for the drafting or preparation thereof, shall not apply;
- 2.13. this Constitution shall in all respects be governed by the laws of the Republic.

### 3. **DOMICILIUM CITANDI ET EXECUTANDI**

- 3.1. The Trustees shall from time to time determine the physical address and/or email address constituting the *domicilium citandi et executandi* of the Body Corporate and notify CSOS, the local municipality and the registrar of deeds thereof, as required by section 3(1)(o) of the STSMA, subject to the following:
  - 3.1.1. such physical address shall be the address of the Chairperson or other resident Trustee or the address of the offices of any duly appointed managing agent;
  - 3.1.2. the respective email addresses of the Body Corporate shall be the email address of the Chairperson or other resident Trustee or the email address of any duly appointed managing agent;
  - 3.1.3. no change of the aforesaid physical address or email address shall be effective until written notification thereof has been lodged with CSOS;
  - 3.1.4. the Trustees shall give notice to all Members of any change in such physical address and/or email address.
- 3.2. The *domicilium citandi et executandi* of each Member shall be the address of the Section registered in his name and/or the email address chosen by such Member and notified to the Body Corporate. A Member shall be entitled from time to time to change his physical address and/or email address provided that any new physical address shall be situated in the Republic and shall not be a post office box or *poste restante*, and provided further that the change shall only be effective on receipt of written notice thereof by the Body Corporate at its *domicilium* referred to in Rule 3.1. Written notice of any such change in such physical address and/or email address may be given to the Body Corporate either by hand delivery and/or per email.

### 4. **MAIN OBJECT**

- 4.1. The main object of the Body Corporate is:
  - 4.1.1. the promotion, advancement and protection of its Members and their respective rights and interests;
  - 4.1.2. the improvement to, maintenance of and control over the Building(s) and the Common Property forming part of the Scheme;
  - 4.1.3. the compilation, approval and regulation of the General Budget, as referenced in Rules 10.2.1.2 and 10.12.1, including the management of the Administration Fund and the Reserve Fund;
  - 4.1.4. the control over the implied servitudes created in favour of and against each Section in terms of section 28 of the STA;
  - 4.1.5. the promotion, advancement and protection of the communal interests of the Members;
  - 4.1.6. the regulation of the scope, usage and extent of the Common Property;



- 4.1.7. enforcing compliance by all Members with the provisions of this Constitution and all other rules issued pursuant thereto from time to time;
- 4.1.8. enforcing compliance by all Members with the HAPOA MOI and all other rules and regulations issued pursuant thereto from time to time.

## 5. **FUNCTIONS AND POWERS OF THE BODY CORPORATE**

The Body Corporate shall have the functions and powers normally associated with a body corporate in a sectional title scheme and which functions and powers are more fully detailed in Sections 3, 4 and 5 of the STSMA and this Constitution.

## 6. **BUILDING COMPONENTS, PRIVATE COMMON AREAS AND SHARED COMMON AREAS**

- 6.1. The Retail Component, Residential Component 1, Residential Component 2, the Parking Component and its respective Private Common Areas as well as the Shared Common Areas and Exclusive Use Areas are reflected in Annexure B hereto, and have been allocated having regard to the following principles:
  - 6.1.1. Certain common areas will be available for use exclusively by certain Building Components ("**Private Common Areas**").
  - 6.1.2. Other common areas ("**Shared Common Areas**") will be available for use by all Members of the Body Corporate.
- 6.2. The Private Common Areas and Shared Common Areas (collectively "**the Common Property**") are reflected in Annexure A and Annexure B hereto.
- 6.3. The general public shall have access to those parts of the Common Property used as lifts, stairs, vehicular access and pedestrian access and which are required and allocated in order to gain access to the Parking Component and the Building(s), where applicable and as provided for herein.
- 6.4. The Members, Managing Agent, its staff and service providers will, to the extent necessary, have free access over the Common Property and/or the Parking Component in order to access any area which they are responsible to maintain.
- 6.5. The Body Corporate shall be liable to maintain all the Common Property as set out 6.1 above. The Body Corporate shall charge a Levy to all Members Based on each Member's Participation Quota. The Developer and/or Trustees (as may be applicable) shall be entitled to differentiate the Levy payable by the Members of the different Building Components, having regard to the varying extent that the different Building Components use the Common Property and the varied maintenance requirements for each Building Component, taking into account various factors including but not limited to:
  - 6.5.1. only the Residential Component uses the lifts allocated exclusively to the Residential Component and therefore such component should carry the costs of maintaining such lifts;
  - 6.5.2. the utilities used by each Building Component's Private Common Area should be borne by each Building Component;
  - 6.5.3. the maintenance costs of each Building Component's Private Common Area should be borne by each Building Component;
  - 6.5.4. general costs associated with the servicing and maintenance of a Building Component's Private Common Area should be borne by each Building Component.

## **7. TRUSTEES OF THE BODY CORPORATE**

### **7.1. Composition of Trustees**

- 7.1.1. The number of Trustees of the Body Corporate shall be at least 3 (three) but not more 6 (six), the composition of which shall be as follows:
- 7.1.1.1. the Residential 1 Component shall be entitled to appoint 3 (three) Trustees;
- 7.1.1.2. the Residential 2 Component shall be entitled to appoint 1 (one) Trustee;
- 7.1.1.3. the Retail Component shall be entitled to appoint 1 (one) Trustee; and
- 7.1.1.4. the Parking Component shall be entitled to appoint 1 (one) Trustee.
- 7.1.2. Only Members of the specific Building Component will be allowed to vote for the Trustee(s) who will be elected to represent that specific Building Component.
- 7.1.3. With effect from the date of the establishment of the Body Corporate, all Members shall be Trustees who shall hold office until the first general meeting of the Members of the Body Corporate as contemplated in Rule 11 whereupon they shall retire but shall be eligible for re-election in terms of Rules 7.3 and 7.4.
- 7.1.4. The Chairperson of the Trustees referred to in Rule 7.1.2 shall be the Developer concerned or his nominee, who shall hold office until the end of the first general meeting, when he shall retire as Chairperson, but shall be eligible for re-election in terms of Rule 9.3.2.

### **7.2. Qualifications**

- 7.2.1. A Trustee nominated by the Residential Component must be a Member or a spouse of such Member. A Member can only have one representative appointed as a Trustee (i.e. either the Member or its spouse).
- 7.2.2. Any Member who is a juristic person can nominate a representative of the juristic person as a Trustee, provided that the nominee is a natural person. Juristic persons cannot be trustees.

### **7.3. Nominations**

- 7.3.1. Nominations by Members for the election of Trustees at any annual general meeting shall be given:
- 7.3.2. in accordance with the categories of Trustees (as per Rule 7.1.1) in respect of which such Member is allowed to vote for the election of such a Trustee(s);
- 7.3.3. in writing, accompanied by the written consent of the person nominated, so as to be received at the *domicilium* of the Body Corporate by no later than 48 (forty eight) hours prior to the meeting,
- provided that Trustees are also capable of being elected by way of nominations with the consent of the nominee given at the meeting itself should insufficient written nominations be received to comply with the number of Trustees required in terms of Rule 7.1.1.

#### **7.4. Election of Trustees**

- 7.4.1. The Trustees shall be elected by the Members at the first annual general meeting of the Body Corporate and thereafter at each subsequent annual general meeting, and shall hold office until the end of the next succeeding annual general meeting, at which meeting they shall be eligible for re-election, if so nominated.
- 7.4.2. Following election of the Trustees as aforesaid, the Trustees shall elect, from amongst the relevant Trustees, a Chairperson to chair the Trustees committee.

#### **7.5. Replacement of & vacancy in number of Trustees**

- 7.5.1. In the event of any Trustee ceasing to hold office in terms of Rule 7.10 Trustees may fill any vacancy in the number of Trustees, subject to the composition of Trustees required in terms of Rule 7.1.1.
- 7.5.2. Any Trustee so appointed shall hold office until the next annual general meeting when he/ she shall retire and be eligible for re-election in terms of Rules 7.3 and 7.4.
- 7.5.3. In the event that the Trustee ceasing to hold office as aforesaid, is the Chairperson, the remaining Trustees shall appoint a person from amongst their number to act as Chairperson.

#### **7.6. Alternate trustees**

- 7.6.1. Each duly elected Trustee may appoint another person, provided such person is a Member of the Body Corporate or a representative of a Member of the Body Corporate where the Member is a juristic person, to act as an alternate trustee during their temporary absence or temporary inability to act as Trustee.
- 7.6.2. An alternate trustee shall have the powers and duties of a Trustee.
- 7.6.3. An alternate trustee shall cease to hold office if the Trustee for whom they act, ceases to be a Trustee, or if the alternate's appointment is revoked by the relevant Trustee.

#### **7.7. Remuneration**

- 7.7.1. Unless otherwise determined by a Special Resolution of all Members of the Body Corporate, Trustees who are Members shall not be entitled to any remuneration in respect of their services as such, provided however that the Body Corporate shall reimburse to the Trustees all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers on behalf of the Body Corporate and in accordance with this Constitution.
- 7.7.2. The Body Corporate may remunerate Trustees who are not Members at such rate as may be approved by an Ordinary Resolution of the Members of the Body Corporate as part of the General Budget and such Trustees shall further be entitled to have refunded to them any disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers on behalf of the Body Corporate and in accordance with these Rules, provided always that an alternate trustee appointed by the Trustees, who is not a Member, shall claim his remuneration, if any, from the Trustee whom he replaced and not from the Body Corporate, unless the Body Corporate has been instructed in writing by such Trustee to pay any portion of his remuneration to such alternate trustee.

## 7.8. **Indemnity**

- 7.8.1. Subject to Rule 7.8.3, every Trustee, agent or other officer or employee of the Body Corporate shall be indemnified by the Body Corporate against all costs, losses, expenses and claims which he may incur or become liable for by reason of any act done by him in the discharge of his duties in accordance with this Constitution, unless such costs, losses, expenses and/or claims are caused by the *mala fide* (bad faith) or grossly negligent conduct of such person.
- 7.8.2. The Trustees shall pay such indemnity, as and when necessary, out of the funds of the Body Corporate.
- 7.8.3. The indemnity referred to in Rule 7.8.1 shall not apply in favour of any managing agent appointed in terms of Rule 12.

## 7.9. **Powers and Duties**

The Trustees shall have the powers and duties as detailed in Section 7 of the STSMA, PMR 9, this Constitution and any direction given to or restriction imposed upon them by the Members in general meeting.

## 7.10. **Disqualification & Removal from Office**

- 7.10.1. A Trustee shall cease to hold office as such:
- 7.10.1.1. if by notice in writing to the Body Corporate, they resign their office;
  - 7.10.1.2. if they do not attend 3 (three) consecutive meetings, notice of which meetings has been given to the Trustee concerned;
  - 7.10.1.3. if they are or become of unsound mind;
  - 7.10.1.4. if they surrender their estate as insolvent, or if their estate is sequestrated;
  - 7.10.1.5. if they are convicted of an offence which involves dishonesty;
  - 7.10.1.6. in the event of their death;
  - 7.10.1.7. if by Ordinary Resolution of the Members of the Body Corporate, a Trustee is removed from their office, provided that the intention to vote upon the removal from office has been specified in the written resolution or notice convening the meeting (as the case may be); or
  - 7.10.1.8. if they are or become disqualified, in terms of Section 69 of the Companies Act, from being appointed or acting as a director of a company.

## 8. **Member Representation at HAPOA**

- 8.1. Each Member shall automatically be a member of HAPOA, and be bound by the provisions of the HAPOA MOI.
- 8.2. The Chairperson (or any Trustee nominated by the other Trustees for such purpose) of the Body Corporate shall automatically become eligible to be appointed as a director at HAPOA, representing the Body Corporate.

- 8.3. The representative appointed in terms of Rule 8.2 above, shall represent each Member of the Body Corporate in their capacity as a member of HAPOA, at any members meeting of the HAPOA. Accordingly, each Member hereby cedes and assigns any and all its voting rights which it may have in terms of the HAPOA MOI in respect of HAPOA, to the Body Corporate representative appointed in terms of Rule 8.2.
- 8.4. HAPOA shall charge a levy to all its members, which levy is incorporated as part of the Body Corporate Levy. Accordingly, upon approval of the Body Corporate Levy, the Members shall have approved the HAPOA levy.
- 8.5. The Body Corporate's vote and the casting of such vote at any meeting of the HAPOA (whether as director or member) shall be determined by the provisions of the HAPOA MOI and shall be exercised by the representative of the Body Corporate referred to in Rule 8.2 and 8.3 above.

## 9. **MEETINGS OF TRUSTEES**

### 9.1. **Calling of and attendance at Trustee meetings**

- 9.1.1. Subject to Rules 9.1.2, 9.1.3 and 9.1.4, the Trustees may give notice convening meetings, meet for the dispatch of business, adjourn and otherwise regulate their meetings as they deem fit.
- 9.1.2. The Trustees may by Ordinary Resolution set the dates of and a standard agenda for their future meetings and delivery of such resolution to the Trustees is considered adequate notice of all such meetings.
- 9.1.3. A Trustee may at any time convene a meeting of the Trustees on not less than 7 (seven) days' written notice of the proposed meeting, which notice shall set out the time, place and agenda of such meeting, provided that in cases of urgency such shorter notice as is reasonable in the circumstances may be given if the reasons for such urgency is detailed in the notice.
- 9.1.4. Any Member, Registered Bondholder holding first mortgage bonds over Sections shall, and holders of future development rights, may in writing request to be notified of Trustee meetings (including the resolution referred to in Rule 9.1.2 and adjournment of such meetings), provided that such person bears the reasonable cost of such notification.
- 9.1.5. Any Member, Registered Bondholder holding first mortgage bonds over sections and holders of future development rights or their respective nominees shall be entitled to attend and speak on matters on the agenda but shall not be entitled to propose any motion or vote thereat and shall not be entitled to attend parts of the meeting referred to in PMR 11(3)(a) and PMR 11(3)(b).
- 9.1.6. The Trustees may make arrangement for attendance at a Trustee meeting by way of telephone, video conferencing or other method, if such method:
- 9.1.6.1. is accessible to all Trustees or their alternate trustees (as the case may be);
- 9.1.6.2. permits all persons participating in the meeting to communicate with each other during the meeting; and
- 9.1.6.3. permits the Chairperson to confirm, with reasonable certainty, the identity of the participants.
- 9.1.7. A person who attends the Trustee meeting as described in Rule 9.1.6 is considered to be present in person at the meeting.

- 9.1.8. The Trustees are not obliged to hold a meeting if:
- 9.1.8.1. at least 24 (twenty four) hours before the meeting is set to take place:
- 9.1.8.1.1. all Trustees consent in writing to motions that deal with the items of business on the agenda; and
- 9.1.8.1.2. the Trustee(s) calling the meeting, alternatively the Chairperson, has sent an email to all Trustees and other persons entitled to notice of such meeting advising that the meeting will not proceed, provided that if the said person made a reasonable attempt to give such notice, an inadvertent omission or failure to do so to any person entitled to such notice or the non-receipt or late receipt of such notice shall not invalidate the notice or the resolutions agreed to in writing as aforesaid.

## 9.2. **Quorum of trustees**

- 9.2.1. At a meeting of the Trustees no less than 4 (four) Trustees shall form a quorum, provided that each of the applicable Building Components are represented.
- 9.2.2. If at any meeting of Trustees a quorum is not present within 30 (thirty) minutes of the appointed time of the meeting, such meeting shall stand adjourned to the next Business Day at the same time and same place.
- 9.2.3. In the event that the Trustees are not able to meet in person, then the Trustees will be entitled to adopt of written resolution, provided that all Trustees are notified in advance of the proposed written resolution.

## 9.3. **Chairperson**

- 9.3.1. From the establishment of the Body Corporate until the end of the first general meeting, the Developer or the Developer's nominee is the Chairperson of the Trustees.
- 9.3.2. At the commencement of the first meeting of Trustees after an annual general meeting at which Trustees have been elected as provided for in Rules 7.3 and 7.4, the Trustees shall elect a Chairperson from among their number, who shall, subject to Rule 9.3.3, hold office as such until the end of the next annual general meeting of the Members of the Body Corporate.
- 9.3.3. The Trustees at a Trustees' meeting or the Body Corporate at a general meeting, in respect of which notice of the intended removal from office of the Chairperson has been given, may remove the Chairperson from office, provided that such removal shall not remove the Chairperson from the office of Trustee.
- 9.3.4. If any Chairperson elected in terms of Rule 9.3.2 vacates office as Chairperson or ceases to hold office by virtue of the provisions of Rule 9.3.3, the Trustees shall elect another Chairperson from among their number who shall hold office as such for the remainder of the period of office of the first-mentioned Chairperson and who shall have the same voting rights as the first-mentioned Chairperson.
- 9.3.5. If any Chairperson vacates the chair during the course of a meeting or is not present or is for any other reason unable to preside at any meeting, the Trustees present at such meeting shall choose another Chairperson from among their number, who shall for such meeting have the same powers and duties as the Chairperson would ordinarily have.

#### 9.4. **Voting by Trustees**

- 9.4.1. Subject to Rule 9.4.5, each Trustee shall have 1 (one) vote.
- 9.4.2. A motion at a Trustee meeting does not have to be seconded and must be determined by a resolution adopted by the majority of Trustees present and entitled to vote.
- 9.4.3. Trustees must adopt decisions by way of majority vote, provided that resolutions may be put to the vote:
- 9.4.3.1. at Trustee meetings; or
- 9.4.3.2. by a notice sent to each Trustee which contains the text of any proposed resolutions and instructs the Trustees to indicate their agreement to the resolution by affixing their signature thereto and return same to the Body Corporate by no later than the closing date specified in the said notice.
- 9.4.4. A resolution in writing signed by the majority of the Trustees and constituting a quorum, shall be as valid and effective as if it had been passed at a meeting of the Trustees duly convened and held.
- 9.4.5. A Trustee is disqualified from voting in respect of any contract or dispute with the Body Corporate to which the Trustee is a party (whether directly or indirectly) and any other matter in respect of which the Trustee has any direct or indirect interest.
- 9.4.6. In the event of a deadlock, no resolution shall be passed and the meeting shall stand adjourned to the next duly convened Trustee meeting at which the item in respect of which such deadlock was reached, will automatically be placed on the agenda again.

### 10. **THE FUNCTIONS, POWERS AND DUTIES OF TRUSTEES OF THE BODY CORPORATE**

#### 10.1. **General**

- 10.1.1. The functions, powers and duties of the Body Corporate shall, subject to the provisions of the STA, the STSMA, this Constitution and to any restrictions imposed and/or directions given at a general meeting of the Members, be performed or exercised by the Trustees of the Body Corporate holding office in terms of this Constitution.
- 10.1.2. The Trustees shall:
- 10.1.2.1. perform the functions entrusted to them in terms of the STA, the STSMA and this Constitution;
- 10.1.2.2. do all things reasonably necessary for the control, management and administration of the Scheme; and
- 10.1.2.3. do all things reasonably necessary for the enforcement of the provisions of this Constitution.

#### 10.2. **Powers**

- 10.2.1. Subject to any restrictions imposed and/or directions given by Members at a general meeting of the Body Corporate, the powers of the Trustees shall include, but shall not necessarily be limited to, the following:
- 10.2.1.1. to meet and carry out the Body Corporate's business, adjourn and otherwise regulate meetings as they deem fit;



- 10.2.1.2. to compile and thereafter submit the General Budget for approval at an annual general meeting of the Body Corporate;
- 10.2.1.3. to appoint for and on behalf of the Body Corporate such agents and employees as they deem fit in connection with:
  - 10.2.1.3.1. the control, management and administration of the Scheme (including the Building(s) and the Common Property);
  - 10.2.1.3.2. the exercise and performance of any or all of the powers and duties of the Body Corporate in accordance with Rule 10.1 and resolutions taken at general meetings of the Members and at Trustee meetings;
- 10.2.1.4. to apply the Body Corporate funds in accordance with the General Budget approved by the Members;
- 10.2.1.5. to delegate to one or more of the Trustees such of their powers and duties as they deem fit, and at any time to revoke such delegation;
- 10.2.1.6. to compile minutes of each Trustee meeting and general meeting and within 7 (seven) days of such meeting distribute the minutes to persons entitled to have received notice of such meeting; and
- 10.2.1.7. appoint a managing agent (in terms of Rule 12).
- 10.2.2. The Trustees may not make loans on behalf of the Body Corporate to Members and/or to any third parties and/or to themselves.

### 10.3. **Signing of instruments**

- 10.3.1. No document signed on behalf of the Body Corporate shall be valid and binding unless it is signed on authority of a resolution:
  - 10.3.1.1. in the case of a certificate issued in terms of section 15B(3)(i)(aa) of the STA, by 2 (two) Trustees or the managing agent; or
  - 10.3.1.2. in the case of any other document, by 2 (two) Trustees alternatively the managing agent (referred to in Rule 12).

### 10.4. **Maintenance, repair and replacement plan**

The Trustees shall prepare a written maintenance, repair and replacement plan for the Common Property as envisaged in PMR 22.

### 10.5. **Administration Fund & Reserve Fund**

The Trustees shall establish and maintain an Administration Fund and a Reserve Fund as envisaged in section 3 of the STSMA and PMR 24.

### 10.6. **Insurance**

- 10.6.1. At the first meeting of the Trustees or as soon thereafter as is possible, and annually thereafter, the Trustees shall take steps to insure the Building(s), and all improvements to the Common Property, to the full replacement value thereof, subject to negotiation of such excess, premiums and insurance rates as in the opinion of the Trustees are most beneficial to the Members, against:
  - 10.6.1.1. fire, lightning, explosion and smoke;

- 10.6.1.2. riot, civil commotion, strikes, lock-outs, labour disturbances and/or malicious persons acting on behalf of or in connection with any political organisation;
  - 10.6.1.3. storm, tempest, windstorm, hail and flood;
  - 10.6.1.4. earthquakes and subsidence;
  - 10.6.1.5. bursting or overflowing of any water tanks, pipes and any other apparatus forming part of and/or required for the proper functioning of any water tanks, water pipe network or water/pipe infrastructure in respect of the Building(s), and the Common Property;
  - 10.6.1.6. impact by aircraft with the Building(s) and/or improvements to the Common Property;
  - 10.6.1.7. impact by any vehicle(s) or other objects (including animals) with the Building(s) and/or improvements to the Common Property;
  - 10.6.1.8. housebreaking, theft, robbery, armed robbery and/or any attempt thereat;
  - 10.6.1.9. loss of occupation and/or loss of rent and/or any other form of income in respect of any of the above risks;
  - 10.6.1.10. such other perils or dangers as the Members may determine by way of Special Resolution.
- 10.6.2. The Trustees shall at all times ensure that in the insurance policy(ies) referred to in Rule 10.6:
- 10.6.2.1. there is specified the replacement value of each Section (excluding the Members' undivided share in the Common Property):
    - 10.6.2.1.1. initially, but subject to the provisions of Rule 10.6.2.1.3, in accordance with the Trustees' estimate of such value;
    - 10.6.2.1.2. after the first annual general meeting, but subject to the provisions of Rule 10.6.2.1.3, in accordance with the schedule of values as approved in terms of Rule 10.6.3; or
    - 10.6.2.1.3. as required at any time by any Member in terms of Rule 10.6.2.2;
  - 10.6.2.2. any "average" clause is restricted in its effect to individual Sections and does not apply to the Building(s) as a whole;
  - 10.6.2.3. there is included a clause in terms of which the policy(ies) is valid and enforceable by any Registered Bondholder against the insurer notwithstanding any circumstances whatsoever which would otherwise entitle the insurer to refuse to make payment of the amount insured unless and until the insurer on not less than 30 (thirty) days' notice to the Registered Bondholder shall have terminated such insurance.
- 10.6.3. Before every annual general meeting, the Trustees shall cause to be prepared and lay before the annual general meeting of the Body Corporate for consideration and approval, schedules reflecting the estimate of:
- 10.6.3.1. the replacement value of Building(s) and all improvements to the Common Property; and

- 10.6.3.2. the replacement value of each Section (excluding the Members' undivided share in the Common Property), the aggregate of such values of all Sections being equal to the value referred to in Rule 10.6.3.1.
- 10.6.4. Any Member may at any time increase the replacement value as specified in the insurance policy(ies) in respect of his Section, provided that such Member shall be liable for payment of the additional insurance premium and shall forthwith furnish the Body Corporate with proof thereof from the insurer.
- 10.6.5. The Trustees shall, on the written request of a Registered Bondholder and satisfactory proof thereof, record the cession by any Member to such Registered Bondholder of the Members' interest in the application of the proceeds of the insurance policy(ies) effected in terms of Rule 10.6.1.
- 10.6.6. At the first meeting of the Trustees or as soon thereafter as is possible, the Trustees shall take all reasonable steps:
- 10.6.6.1. to insure the Members and the Trustees and to keep them insured against liability in respect of:
- 10.6.6.1.1. death, bodily injury or illness; and
- 10.6.6.1.2. loss of, or damage to, property,  
occurring in connection with the Building(s), and the Common Property, for a sum of liability of not less than R20,000,000.00 (twenty million rand), which sum may be increased from time to time as directed by the Members in general meeting; and
- 10.6.6.2. to procure to the extent (if any) as determined by the Members of the Body Corporate in general meeting, a fidelity guarantee in terms of which shall be refunded any loss of monies belonging to the Body Corporate or for which it is responsible, sustained as a result of any act of fraud and/or dishonesty committed by any insured person being any person in the service of the Body Corporate and all Trustees and persons acting in the capacity of managing agents of the Body Corporate.
- 10.6.7. The Members may by Special Resolution direct the Trustees to insure against such other risks as the Members may deem appropriate.

## 10.7. **Collection of Levies**

- 10.7.1. It shall be the duty of the Trustees to levy and collect contributions from the Members in accordance with the provisions and in the proportions set out herein.
- 10.7.2. Subject to the provisions of Rule 10.7.3, the liability of Members to make contributions to the shared costs, and the proportions in which the Members shall make such contributions for the purposes of Section 3 of the STSMA, shall with effect from the date upon which the Body Corporate comes into being, be borne by the Members in accordance with the Participation Quotas attaching to their respective Sections, in terms of Rule 2.3.29 and in accordance with Rule 15.
- 10.7.3. By virtue of the nature of the Building Components, and in particular the general provisions that the various Building Components have varied requirements in respect of the maintenance, upkeep of and all expenses related to the particular Building Component, including those parts of the Private Common Areas allocated for the exclusive use of a particular Building Component, the following principles shall apply:

- 10.7.3.1. the liability of Members to make contributions as provided for in section 3 of the STSMA, shall, in respect of all expenses arising from or in connection with the Building(s) (including the Common Property) be determined in accordance with Rule 2.3.29 read with 6.5.
  - 10.7.3.2. the liability of Members of the Residential Component 1 to make contributions towards the Parking Costs shall be determined in accordance with Rule 15; and
  - 10.7.3.3. the Residential Component 2, being an affordable housing and social responsibility aspect of the Development, shall not be liable to pay any Levies whilst it remains an affordable housing component of the Scheme. A key aspect in developing the Scheme was to ensure that it contributes positively to affordable housing in the inner city. Incorporating a levy on the affordable housing component will render this important aspect of the Scheme redundant and it is therefore a material provision of this Constitution which can only be amended with a unanimous resolution of all Members of the Scheme. The costs associated with the Residential Component 2 shall be apportioned to the remaining Members as set out in the General Budget and approved at each Annual General Meeting;
- 10.7.4. The liability of Members to make contributions, and the proportions in which the Members may, in terms of section 15 of the STSMA be held liable for the payment of a judgment debt of the Body Corporate, shall with effect from the date upon which the Body Corporate comes into being, be borne by the Members in terms of the Participation Quota defined in Rule 2.3.29, provided however that any Member who is required to make a payment to a judgment creditor after he has paid to the Body Corporate any contribution which they were required to pay to the Body Corporate in respect of such debt, shall be entitled to obtain a refund from the Body Corporate of the amount of the payment so made to the judgment creditor.
- 10.7.5. At every annual general meeting the Members shall approve, with or without amendment, the General Budget and shall determine the amount estimated to be required to be levied upon the Members during the ensuing Financial Year.
- 10.7.6. Within 14 (fourteen) days after each annual general meeting the Trustees shall advise each Member in writing of:
- 10.7.6.1. the amount payable by him in respect of the approved General Budget;
  - 10.7.6.2. the Member's obligation to pay the specified contribution;
  - 10.7.6.3. the date(s) on which the contribution is due and payable;
  - 10.7.6.4. the interest (if any) that will be levied on overdue payments; and
  - 10.7.6.5. the dispute resolution process insofar as disputed contributions are concerned.

10.7.7. The Trustees may from time to time, when necessary, provide for Special Contributions or call upon Members to make Special Contributions in respect of all such expenses as are not included in any approved General Budget and such Special Contributions shall be determined as follows:

10.7.7.1. in respect of a Building Component in which a Member's Section is situated (including those parts of the Private Common Areas allocated for the exclusive use by the particular Building Component), the liability of such Members to pay Special Contributions shall be determined in accordance with such Member's Participation Quota in relation to such Building Component only; and

10.7.7.2. in respect of expenses arising from or in connection with the Parking Component Costs, the liability of Members of the Body Corporate to pay Special Contributions shall be determined in accordance with Rule 15; and

10.7.7.3. in respect of all expenses arising from or in connection with the Building(s) (including the Shared Common Areas) and insofar as such expenses cannot be allocated to a specific Building Component, the liability of Members to pay Special Contributions shall be determined in accordance with such Member's Participation Quota as referred to in Rule 2.3.29.

10.7.8. Special Contributions as provided for in Rule 10.7.7 may be made payable by Members liable for such Special Contribution, either in one lumpsum or in such number of instalments and at such time(s) as the Trustees deem to be appropriate in the circumstances.

#### 10.8. **Record of Rules and Availability**

10.8.1. The Trustees shall keep a complete record of:

10.8.1.1. the Constitution as well as all Rules in force from time to time and shall ensure that any amendment, substitution, addition to and/or repeal of such Rules is submitted to CSOS for approval as contemplated in section 10 of the STSMA; and

10.8.1.2. the information and documents listed in PMR 27.

10.8.2. The Trustees shall:

10.8.2.1. have this Constitution available for inspection at Trustee meetings and Member meetings;

10.8.2.2. deliver a copy of this Constitution to each person who becomes a Member;

10.8.2.3. deliver to all Members a copy of any Rules substituted, amended or repealed in terms of section 10(5) of the STSMA; and

10.8.2.4. deliver to a Member upon written request and upon payment by such Member of the reasonable costs incurred in the supply thereof to such Member, a copy of this Constitution and/or Rules substituted, amended or repealed in terms of section 10(5) of the STSMA.

#### 10.9. **Improvements to Common Property**

10.9.1. The Trustees may:

10.9.1.1. if the Members by Unanimous Resolution so decide, effect improvements which are not reasonably necessary to Common Property;

- 10.9.1.2. if the Members by Special Resolution so decide, effect improvements which are reasonably necessary to the Common Property.
- 10.9.2. Should the Trustees wish to effect any improvements the Common Property which are reasonably necessary or not reasonably necessary, they shall first give written notice of such intention to all Members effected thereby. Such notice shall:
- 10.9.2.1. indicate the intention of the Trustees to proceed with the improvements; and
- 10.9.2.2. provide details of the improvements as to:
- 10.9.2.2.1. the costs thereof; and
- 10.9.2.2.2. the manner in which it is to be financed and the effect (if any) upon Levies payable by Members; and
- 10.9.2.2.3. the need, desirability and effect thereof.
- 10.9.3. The Trustees shall convene a special general meeting in order to discuss and to deliberate upon the proposals contained in the notice referred to in Rule 10.9.2, at which meeting the Members may reject or approve such proposals, with or without amendment.
- 10.9.4. The Trustees shall not proceed with their proposals until the holding of a special general meeting, whereupon they shall be bound by any Unanimous Resolution or Special Resolution (as the case may be) ensuing therefrom.

#### **10.10. Minutes of Meetings**

- 10.10.1. The Trustees shall:
- 10.10.1.1. keep minutes of their meetings;
- 10.10.1.2. cause minutes to be kept of all meetings of the Body Corporate in a minute book kept for that purpose;
- 10.10.1.3. include in the minute book of the Body Corporate a record of every Unanimous Resolution, Special Resolution, Ordinary Resolution and any other resolution of the Body Corporate.
- 10.10.2. The Trustees shall keep all minute books in perpetuity.
- 10.10.3. On the written application of any Member or Registered Bondholder of a Section, the Trustees shall make all minutes of their proceedings and the minutes of the Body Corporate available for inspection by such Member or Registered Bondholder.

#### **10.11. Records and books of account**

- 10.11.1. The Trustees shall cause proper books of account and records to be kept in respect of all dealings relating to the Building(s) and the Common Property so as to accurately record and fairly explain the transactions and financial position of the Body Corporate, including, but not necessarily limited to:
- 10.11.1.1. a record of assets and liabilities;
- 10.11.1.2. a record of all sums of money received and expended and the matters in respect of which such receipt and expenditure occurred;

- 10.11.1.3. a register of Members and of Registered Bondholders and of all other persons having real rights in respect of a Section (insofar as written notice shall have been given to the Trustees by the relevant Members, Registered Bondholders or other persons) showing in each case their physical addresses and email addresses;
- 10.11.1.4. individual ledger accounts in respect of each Member.
- 10.11.2. On written application by any Member, Registered Bondholder or of the managing agent the Trustees shall make all or any of the books of account and records available for inspection by such Member, Registered Bondholder or managing agent at a time convenient for all parties involved.
- 10.11.3. The Trustees shall cause all books of account and records to be retained for a period of 6 (six) years after completion of the transactions, acts or operations to which they relate, provided that minute books shall be retained in perpetuity, for as long as the scheme remains registered.

#### **10.12. General Budget, financial statements and report**

- 10.12.1. Before every annual general meeting, the Trustees shall prepare or cause to be prepared a General Budget, which General Budget shall:
  - 10.12.1.1. be laid before the annual general meeting for consideration and approval in terms of Rule 11.4.1.3.2; and
  - 10.12.1.2. include a reasonable provision for contingencies and the maintenance of the Building(s) and the Common Property.
- 10.12.2. Without derogating from the generality of Rule 10.12, the General Budget shall include the Levies payable from time to time by the Members of the Body Corporate for and in respect of the HAPOA. These expenses as set out in the General Budget shall be allocated to the respective Members in accordance with Rule 2.3.29 read with Rule 6.5.
- 10.12.3. For the sake of clarity, it is herewith recorded that all Members shall be entitled to partake and vote in relation to the consideration, confirmation and/or variation of the General Budget.
- 10.12.4. The Trustees shall prepare or cause to be prepared, and shall lay before every annual general meeting for consideration in terms of Rule 11 audited financial statements relating to the management, control and administration of the Body Corporate prepared in conformity with generally accepted accounting practice, which statements shall fairly present the state of affairs of the Body Corporate and its finances and transactions as at the end of the Financial Year concerned.
- 10.12.5. The statements shall include information and notes pertaining to the proper financial management by the Body Corporate, including but not limited to:
  - 10.12.5.1. an analysis of the periods of debts and the amounts due by Members to the Body Corporate in respect of Levies, Special Contributions and other charges;
  - 10.12.5.2. an analysis of the periods and the amounts due by the Body Corporate to creditors and in particular to any public or local authority in respect of rates, taxes and charges for consumption or services, including but not limited to, water, electricity, gas, sewerage and refuse removal;
  - 10.12.5.3. amounts advanced to the Body Corporate by way of levy finance, a loan or otherwise;



- 10.12.5.4. amounts in the Reserve Fund showing the amount available for maintenance, repair and replacement of each major capital item insofar as the Common Property is concerned, as a percentage of the accrued estimated cost and the rand value of any shortfall;
- 10.12.5.5. amounts payable to CSOS; and
- 10.12.5.6. the expiry dates of all insurance policies.
- 10.12.6. The Trustees shall further cause to be prepared and shall lay before every annual general meeting budgets for the Administration Fund and the Reserve Fund comprising itemised estimates of the anticipated income and expenses in respect of the Common Property during the next Financial Year, provided that such budgets may include discounts not exceeding 10% (ten percent) of the Members' annual contributions if all those contributions are paid before the due dates.
- 10.12.7. The Trustees shall further cause to be prepared and shall lay before every annual general meeting a report signed by the Chairperson reviewing the affairs of the Body Corporate during the past Financial Year, for consideration in terms of Rule 11.
- 10.12.8. The Trustees shall cause copies of the insurance schedules, General Budget, audited statements, Administration Fund and Reserve Fund budgets and Chairperson's report referred to in Rules 10.6.3, 10.12.1, 10.12.4, 10.12.6 and 10.12.7 to be delivered to each Member, to any Registered Bondholder which has advised the Body Corporate of its interest, and to all holders of future development rights, at least 14 (fourteen) days before the date of the annual general meeting at which they are to be considered.
- 10.12.9. Delivery under Rule 10.12.8 shall be deemed to have been effected if the documents referred to are sent/delivered by email, by hand or by courier addressed to the Member at his *domicilium* referred to in Rule 3.2, and to any Registered Bondholder as aforesaid at the address of such Registered Bondholder as reflected in the records of the Body Corporate.

#### 10.13. **Audit**

At the first general meeting and thereafter at every ensuing annual general meeting, the Members shall appoint an auditor to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.

#### 10.14. **Deposit and investment of funds**

- 10.14.1. The Trustees shall cause all monies received by the Body Corporate to be deposited to the credit of an account or accounts with a registered commercial bank or building society in the name of the Body Corporate and, subject to any direction given or restriction imposed at a general meeting of the Body Corporate, such monies shall only be withdrawn for the purpose of payment of the expenses of the Body Corporate or investment in terms of Rule 10.14.3.
- 10.14.2. The Trustees may authorise the managing agent to administer and operate the accounts referred to in Rules 10.14.1 and 10.14.3, provided that where the managing agent is a property practitioner as defined in the Property Practitioners Act 22 of 2019 ("PPRA"), the Trustees may authorise such managing agent to deposit monies contemplated in Rule 10.14.1 in a trust account as contemplated in section 54 of the PPRA, which monies shall only be withdrawn for the purposes contemplated in Rule 10.14.1.
- 10.14.3. Any funds not immediately required for disbursement, may be invested in a savings or similar account with any registered bank or building society approved by the Trustees from time to time.

10.14.4. Interest on monies invested shall be used by the Body Corporate for any lawful purpose.

## 11. **MEETINGS OF MEMBERS**

### 11.1. **General meetings**

11.1.1. The first meeting of Members shall be held within 60 (sixty) days of the establishment of the Body Corporate, on at least 7 (seven) days' written notice to all Members, and which notice shall be accompanied by a copy of the agenda of such meeting and details of the items referred to in Rule 11.1.2.

11.1.2. The Developer must include with the notice of the first general meeting:

11.1.2.1. an agenda, the content of which is detailed in Rule 11.1.3;

11.1.2.2. the documents referred to in PMR 16(2);

11.1.2.3. a comprehensive summary of the rights and obligations of the Body Corporate under the contracts referred to in Rule 11.1.3.5 (if any);

11.1.3. The agenda for the meeting convened under Rule 11.1.1, shall comprise at least the following:

11.1.3.1. the consideration, confirmation and/or variation of the insurances effected by the Developer or the Trustees;

11.1.3.2. the consideration, confirmation and/or variation of the General Budget for the ensuing Financial Year;

11.1.3.3. the consideration and approval, with or without amendment, of:

11.1.3.3.1. evidence of revenue and expenditure concerning the management of the Scheme from the date of occupation of the first Section until the date of establishment of the Body Corporate;

11.1.3.3.2. the financial statements relating to the management, control and administration of the Body Corporate from date of establishment of the Body Corporate to the date of notice of the meeting referred to in Rule 11.1.1;

11.1.3.4. a motion confirming that the Developer has:

11.1.3.4.1. furnished the meeting with the documents referred to in section 2(8) of the STSMA and PMR 16; and

11.1.3.4.2. paid over to the Body Corporate any residue referred to in Rule 11.1.3.3.1;

11.1.3.5. subject to section 15(2) of the STSMA, ratification and the taking of cession of any contracts relating to the management, control and administration of the Body Corporate as may have been entered into by the Developer for the continual management, control and administration of:

11.1.3.5.1. the Body Corporate and the Common Property; and

11.1.3.5.2. in respect of which the Developer shall be obliged to submit such contracts (if any) to the meeting;

- 11.1.3.6. the appointment of an auditor or, where applicable, an accounting officer;
  - 11.1.3.7. the election and appointment of the Trustees of the Body Corporate in accordance with Rules 7.3 and 7.4 respectively;
  - 11.1.3.8. any restrictions imposed on or directions given to Trustees in terms of section 7(1) of the STSMA; and
  - 11.1.3.9. determination of the *domicilium citandi et executandi* of the Body Corporate.
- 11.1.4. For purposes of voting on Rules 11.1.3.1, 11.1.3.3, 11.1.3.4 and 11.1.3.5 any vote held or controlled by the Developer (in its capacity as such) shall be suspended, save to the extent that the Developer is also a Member.
- 11.1.5. The Developer shall at or before the first general meeting provide to the Body Corporate the documents listed in PMR 16(4).
- 11.1.6. An annual general meeting shall be held within 4 (four) months of the end of each Financial Year.
- 11.1.7. All general meetings other than the annual general meeting shall be called special general meetings.
- 11.1.8. The Trustees may whenever they think fit, by Ordinary Resolution call a general meeting and must do so if:
- 11.1.8.1. Members of at least 25% (twenty five percent) of the Participation Quota calculated in terms of Rule 2.3.29; or
  - 11.1.8.2. the Registered Bondholder of mortgage bonds over at least 25% (twenty five percent) in number of all Sections,  
  
deliver to the Body Corporate a written and signed request for a special general meeting, which notice must include one or more motions or matters for discussion, which motions or matters for discussion must be included, without amendment, in the agenda for such meeting, provided that if the Trustees fail to call a meeting so requested within 14 (fourteen) days of the request, the Members or the Registered Bondholder concerned shall be entitled themselves to call the meeting.
- 11.1.9. The Body Corporate may make arrangements for attendance at any annual general meeting or special general meeting by telephone, video conferencing or other method, if such method:
- 11.1.9.1. is accessible to all Members;
  - 11.1.9.2. permits all persons participating in the meeting to communicate with each other during the meeting; and
  - 11.1.9.3. permits the Chairperson to confirm, with reasonable certainty, the identity of the participants.
- 11.1.10. A person who attends the meeting as described in Rule 11.1.9 is considered to be present in person at the meeting.

11.1.11. The Body Corporate is not obliged to hold a general meeting if:

11.1.11.1. at least 48 (forty eight) hours before the meeting is set to take place:

- 11.1.11.1.1. all Members consent in writing to motions that deal with the items of business requiring a Unanimous Resolution that must be transacted at the general meeting (if any); and
- 11.1.11.1.2. at least 75% (seventy five percent) of the Members consent in writing to any motions that deal with the items of business requiring a Special Resolution that must be transacted at the general meeting (if any); and
- 11.1.11.1.3. at least 50% (fifty percent) of the Members consent in writing to any motions that deal with the items of business requiring an Ordinary Resolution that must be transacted at the general meeting; and

11.1.11.2. at least 24 (twenty four) hours before the meeting is set to take place, the Body Corporate has sent an email to all Members and other persons entitled to receive notice of general meetings, advising that the meeting will not proceed, provided that if the Trustees made a reasonable attempt to give such notice an inadvertent omission or failure to do so to any person entitled to such notice or the non-receipt or late receipt of such notice shall not invalidate the notice or the resolutions agreed to in writing as aforesaid.

## 11.2. **Notice of general meetings**

11.2.1. Subject to Rule 11.2.2, at least 14 (fourteen) days' written notice of every general meeting specifying the place within the magisterial district where the scheme is situated (or such other place as determined by Special Resolution of the Members), the date and the time of the meeting and, in the case of special business, the general nature of such business, shall be given:

- 11.2.1.1. to all Members;
- 11.2.1.2. to all Registered Bondholders who have advised the Body Corporate of their interests;
- 11.2.1.3. to all holders of future development rights; and
- 11.2.1.4. to the managing agent.

11.2.2. Notwithstanding the provisions of Rule 11.2.1, a general meeting may be called:

- 11.2.2.1. on at least 7 (seven) days' notice if the Trustees have resolved that such short notice is necessary due to the urgency of the matter(s) to be dealt with at such meeting and the reasons for such urgency is detailed in the notice; or
- 11.2.2.2. otherwise on less than 14 (fourteen) days' notice if so agreed by all persons entitled to attend and vote at the meeting;

11.2.3. Any person entitled to receive notice of general meetings may waive such right by written notice delivered to the Body Corporate and may at any time, in the same way, revoke such waiver, provided that where 2 (two) or more persons are jointly entitled to exercise a vote, all of them must waive such right and any of them may revoke the waiver.

- 11.2.4. The Registered Bondholders, holders of future development rights and the managing agent referred to in Rule 11.2.1, shall have the right to attend the meeting herein referred to and to speak at such meetings, but shall not, in their respective capacities as such, be entitled to vote thereat.
- 11.2.5. The notice referred to in Rule 11.2.1 shall be deemed to have been sufficiently given and delivered if delivered in accordance with Rule 10.12.9.
- 11.2.6. The notice referred to in Rule 11.2.1 shall be accompanied by:
- 11.2.6.1. an agenda;
  - 11.2.6.2. a copy of or comprehensive summary of any documents that is to be considered or approved by Members at the meeting;
  - 11.2.6.3. the documents referred to in Rule 10.12.8, except in the case of a meeting contemplated in Rule 11.1.8 or a special general meeting; and
  - 11.2.6.4. a proxy appointment form in the prescribed format referred to in Rule 11.7.8.4.
- 11.2.7. Inadvertent omission or failure to give the notice referred to in Rule 11.2.1 to any person entitled to such notice or the non-receipt of such notice by such person shall not invalidate any proceedings and/or any vote at any such meeting, provided that the Trustees made a reasonable attempt to give notice to all persons entitled to have received such notice.
- 11.2.8. A special general meeting for the purposes of passing a Unanimous Resolution or Special Resolution must be convened on at least 21 (twenty one) days' written notice to all Members of the Body Corporate, but may be convened on shorter notice if, in the opinion of the Trustees, it is necessary due to the urgency of a matter or due to the specific nature of a matter to convene the meeting with such shorter period of notice and the reasons for such urgency or specific nature of the matter is detailed in the notice.
- 11.2.9. Notice of all general meetings must be delivered to each person referred to in Rules 11.2.1.1, 11.2.1.2, 11.2.1.3 and 11.2.1.4:
- 11.2.9.1. by hand; and/or
  - 11.2.9.2. by prepaid registered post sent to:
    - 11.2.9.2.1. the address of the Member's Section in the Scheme or such other physical or postal address in the Republic that the Member has chosen in writing for such purpose; and
    - 11.2.9.2.2. the physical or postal address in the Republic that such other person(s) entitled to receive notice of the meeting has chosen in writing for such purpose; and/or
  - 11.2.9.3. by email transmitted to the email address that the Member or such other relevant person(s) entitled to receive notice of the meeting has chosen in writing for such purpose.
- 11.2.10. Notwithstanding anything to the contrary contained in this Constitution a written notice or communication actually received by a person entitled to receive such notice, shall be an adequate written notice or communication to such person notwithstanding that it was sent via email and/or not sent to or delivered at its chosen *domicilium citandi et executandi*.

### 11.3. Proceedings at general meetings

- 11.3.1. The order of business at general meetings shall be as set out in PMR 17(6).
- 11.3.2. Subject to the provisions of Rules 11.1.8 and 11.3.1 the Trustees may determine the agenda for general meetings, provided that the agenda must contain:
- 11.3.2.1. a description of the general nature of all business; and
- 11.3.2.2. a description of the matters that will be voted on at the meeting, including the proposed wording of any Unanimous Resolution or Special Resolution.
- 11.3.3. The Body Corporate does not have to hold a special general meeting to consider a resolution if all Members waive the right to the meeting (subject to Rule 11.2.3) and the Members consent in writing to the resolution in accordance with Rule 11.1.11
- 11.3.4. All business at any general meeting other than business referred to in Rules 11.4.1, shall be special business.

### 11.4. Annual general meeting

- 11.4.1. The following business shall be transacted at an annual general meeting:
- 11.4.1.1. the receipt of reports of the activities and decisions of the Trustees since the last general meeting, including reports of the Trustees and committees (if any);
- 11.4.1.2. the consideration of the financial statements (as approved by the Trustees), Body Corporate Chairperson's report;
- 11.4.1.3. the approval with or without amendment of:
- 11.4.1.3.1. the insurance schedules of replacement values referred to in Rule 10.6.3; and
- 11.4.1.3.2. the General Budget referred to in Rule 10.12.1;
- 11.4.1.4. the appointment of an auditor or an accounting officer;
- 11.4.1.5. the election and appointment of the Trustees of the Body Corporate in terms of Rule Rules 7.3 and 7.4;
- 11.4.1.6. any special business of which due notice has been given in terms of Rule 11.2.1;
- 11.4.1.7. the giving of directions to or the imposing of restrictions on the Trustees referred to in section 7(1) of the STSMA;
- 11.4.1.8. the determination of the *domicilium citandi et executandi* of the Body Corporate; and
- 11.4.1.9. confirmation by the auditor or accounting officer that any amendment, substitution, addition to or repeal of the Rules (as contemplated in section 35(5) of the STA) have been submitted to and has been approved by CSOS in terms of section 10(5) of the STSMA.

- 11.4.2. The Body Corporate is not obliged to hold an annual general meeting if, within 1 (one) month of the end of a Financial Year, all Members in writing waive the right to the meeting, as provided for in Rule 11.2.3, and the Members consent in writing to motions that deal with all the items of business that must be transacted at the annual general meeting in accordance with Rule 11.1.11.

#### 11.5. **Quorum at general meetings**

- 11.5.1. No business shall be transacted at any general meeting unless a quorum of persons is present in person or by proxy at the time when the meeting proceeds to business.

- 11.5.2. A quorum at any general meeting shall be achieved when:

- 11.5.2.1. for matters concerning the Body Corporate: at least  $\frac{1}{3}$  (one third) of the voting rights of the Members of the Body Corporate that are entitled to be exercised in respect of at least 1 (one) matter to be decided at such meeting are present in person or by proxy or by a representative recognized by law and entitled to vote, calculated in accordance with the Participation Quota as referred to in Rule 2.3.29.

- 11.5.3. If within 30 (thirty) minutes from the time appointed for a general meeting, a quorum is not present, the meeting, shall stand adjourned to the same day in the next week at the same time and at a venue to be confirmed, and:

- 11.5.3.1. the Body Corporate or managing agent, shall within 24 (twenty four) hours of the meeting at which a quorum (as aforesaid) was not present, send a notice per email to all persons entitled to receive notice of general meetings to inform them of the adjournment; and

- 11.5.3.2. at the adjourned meeting a quorum (as aforesaid) is not present within 30 (thirty) minutes of the time appointed for the meeting, the Members present in person or by proxy or by a representative recognized by law and entitled to vote shall form a quorum.

- 11.5.4. Quorum calculation may be done by electronic means, including but not necessarily limited to mobile and/or online platforms such as *MeetingPal*.

#### 11.6. **Chairperson**

- 11.6.1. The Chairperson of the Trustees shall preside as chairperson at every meeting of the Body Corporate, unless otherwise resolved by Members of the Body Corporate at such meeting.

- 11.6.2. If there is no such Chairperson or if, at any meeting, the Chairperson is not present within 15 (fifteen) minutes after the time appointed for the holding of the meeting, or if he is unwilling or unable to act as Chairperson, the Trustees present shall elect from among their number a Chairperson for such meeting.

#### 11.7. **Voting at general meetings**

- 11.7.1. A motion at a general meeting:

- 11.7.1.1. does not need to be seconded; and

- 11.7.1.2. except for Unanimous Resolutions and Special Resolutions, must be adopted by Ordinary Resolution of the Members of the Body Corporate present and entitled to vote, and calculated per the Participation Quotas referred to in Rule 2.3.29.



- 11.7.2. Voting may be facilitated through electronic means, including but not necessarily limited to facilitation through mobile and/or online platforms such as *MeetingPal*.
- 11.7.3. The outcome of each vote, including the number of votes for and against a resolution, must be announced at the meeting and recorded in the minutes of the meeting.
- 11.7.4. The value of a Member's vote in respect of any resolution shall be reckoned in accordance with that Member's Participation Quota as per Rule 2.3.29.
- 11.7.5. No vote in certain circumstances
- 11.7.5.1. Except in cases where a Unanimous Resolution is required under the STA and/or the STSMA, a Member (including his proxy or representative recognized by law) shall not be entitled to vote at any meeting if:
- 11.7.5.1.1. any Levy, Special Contributions or other charges payable by him in respect of his Section and/or any Exclusive Use Areas allocated to him or his Section and/or his undivided share in the Common Property have not been duly paid to the Body Corporate; or
- 11.7.5.1.2. he remains in breach of this Constitution, notwithstanding written notice by the Trustees, or managing agent to refrain from committing or permitting the commission of such a breach,
- provided that any Registered Bondholder shall be entitled to vote as such Member's proxy at any meeting, even though Rule 11.7.5.1.1 or the provisions of this Rule 11.7.5.1.2 may apply to such Member.
- 11.7.6. Voting by representatives of juristic persons
- Where a Member is a juristic person, a representative of such juristic person (duly authorised, alternatively recognized by law) shall exercise the voting rights in respect of the Section to the exclusion of the shareholders of the company, members of the close corporation or beneficiaries of the trust (as the case may be) and such shareholders, members and beneficiaries shall not be entitled to vote.
- 11.7.7. Joint voters
- When 2 (two) or more persons are entitled to exercise one vote jointly, that vote shall be exercised only by 1 (one) person (who may or may not be one of them) jointly appointed by them as their proxy.
- 11.7.8. Proxies at general meetings
- 11.7.8.1. A Member may be represented in person or by proxy or by a representative recognized by law at a general meeting.
- 11.7.8.2. Votes at a general meeting may be cast either personally or by proxy or by a representative recognized by law.
- 11.7.8.3. A proxy shall be appointed in writing under the hand of the appointer, or his agent duly appointed in writing, and shall be handed to the Chairperson or the managing agent at least 24 (twenty four) hours prior to the commencement of the meeting or to the Chairperson before or at the start of the meeting, provided that the foregoing provisions shall not apply in the case of any proxy created and contained in any registered mortgage bond, if such mortgage bond is produced at the meeting.

- 11.7.8.4. The notification by a Member to the Body Corporate of the appointment of a proxy must be substantially in accordance with the form prescribed in terms of section 5(3) of the STSMA, provided however that a resolution by a Member who is a juristic person authorising a representative(s) shall be acceptable notwithstanding that such resolution does not conform to the prescribed format.

## 12. **THE APPOINTMENT, POWERS AND DUTIES OF THE MANAGING AGENT**

- 12.1. Subject to section 7(1) of the STSMA, the Developer may initially appoint a managing agent on behalf of the Members to *inter alia*:

- 12.1.1. control, manage and administer the Body Corporate;
- 12.1.2. control, manage and administer the Common Property;
- 12.1.3. control, manage and administer the Residential Component 1, Residential Component 2, the Retail Component and the Parking Component;
- 12.1.4. control, manage and administer the Private Common Areas of the Residential Component 1, Residential Component 2, the Retail Component and the Parking Component;
- 12.1.5. ensure compliance by the Body Corporate with any obligations to any public or local authority;
- 12.1.6. ensure compliance by the Body Corporate with the provisions of the HAPOA MOI;
- 12.1.7. collect Levies, Special Contributions and other charges due to the Body Corporate by each Member in terms of the General Budget and as determined in accordance with the Participation Quotas provided for in Rule 2.3.29 read with Rule 6.5.
- 12.1.8. collect Levies, Special Contributions and other charges due by each Member and as determined in accordance with the Participation Quotas as provided for in Rule 2.3.29; and
- 12.1.9. collect additional contributions from Members as envisaged in PMR 3(1)(c); and
- 12.1.10. collect from the Residential Building Component 1 the contribution towards the Parking Costs as detailed in Rule 15, and pay same over to the Developer (or its successors-in-title) as owner of the Sections comprising the Parking Component and Exclusive Use Areas linked thereto.

- 12.2. The managing agent referred to in Rule 12.1 shall be appointed for an initial period of 1 (one) year and such appointment shall automatically be renewed from year to year unless the Trustees notify the managing agent to the contrary, provided that either the Body Corporate (subject to a Special Resolution) or the managing agent may, without penalty, terminate the appointment on 2 (two) calendar months' written notice to the other of them.

## 13. **DEALING WITH THE COMMON PROPERTY**

- 13.1. Neither the whole nor any portion of the Common Property shall be:

- 13.1.1. sold, let, alienated, otherwise disposed of, subdivided and/or transferred; or

13.1.2. subjected to any rights, whether registered in a deeds registry or not, of use, occupation or servitude (except those already registered, if any), save for (i) those enjoyed by the Members in terms of this Constitution and (ii) the Developer's rights in terms of Rules 17 or 18; or

13.1.3. built upon, improved or enhanced in value by the construction of buildings, erections, facilities or amenities,

without the specific prior written consent of all the Members and the sanction of the Trustees, provided that no Member or Trustee shall be entitled to unreasonably vote against any such proposal.

13.2. The Developer reserves the right, whether or not it is a Member of the Body Corporate, to erect, install and maintain, at its own expense (but not subject to any rental or other charges payable to the Body Corporate) items including but not limited to aerials, satellite dishes, antennae or any other electromagnetic, radio frequency or signal receiving or sending apparatus, solar panels and electricity generation equipment on the roof of the Building(s) and to receive income and make use of such installation/s for the purpose for which it was designed. Cabling to and from the aforementioned items/equipment shall be over any Common Property (if required).

#### 14. **RESPONSIBILITY FOR THE COMMON PROPERTY**

14.1. The Body Corporate acknowledges that:

14.1.1. the relevant local authority shall not be responsible for the care, repair, maintenance, cleaning, upkeep, improvement and control of the Common Property, services therein and/or any structure or thing erected on or contained therein;

14.1.2. the Body Corporate shall be solely responsible for the care, repair, maintenance, cleaning, upkeep, improvement and control of the Shared Common Areas and for the care, maintenance, cleaning, upkeep, improvement and control of the Private Common Areas pertaining to the Building Component.

14.2. The Body Corporate shall at all relevant times be guided by and remain subject to the HAPOA MOI, as amended from time to time, and any applicable rules and/or regulations issued pursuant thereto.

#### 15. **PARKING**

15.1. The Developer will retain ownership of the entire Section or Sections and Exclusive Use Areas comprising the Parking Component and will operate same on a commercial basis, which will include both short- and long-term parking leases as well as casual parking on an hourly/daily basis. The Developer (or its successors-in-title) as owner of the Parking Component and the Exclusive Use Areas tied thereto (i.e. parking areas) shall accordingly be entitled to all revenue generated by paid parking at the Scheme.

15.2. A Member, being an owner of a Section in the Residential Component 1 as well as its successors-in-title will have the right, in perpetuity, of access to and use of 1 (one) parking bay per Section .

15.3. The aforesaid right of access to and use of a parking bay shall not be on the basis of exclusive use as defined and/or envisaged in the STA.

15.4. Access to and use of the parking bays, as aforesaid, will at all times be subject to payment by the relevant Member, being an owner of a Section in the Residential Component 1 (or its successors-in-title) to the Developer (or its successors-in-title) of a monthly fee per parking bay, to be calculated on a cost recovery basis, to recover all Parking Costs.

- 15.5. It is specifically recorded that the Developer (or its successors-in-title), as owner of the entire Section or Sections and Exclusive Use Areas comprising the Parking Component, shall invoice the Parking Costs as a lump sum on a monthly basis to the Body Corporate. The Body Corporate shall pay the owner of the Parking Component the full lump sum and in turn recover such costs from the relevant Members of the Residential Component 1 or their successors-in-title (as the case may be) –by billing each such Member– based upon the number of parking bays in respect of which use has been granted to each such Member, divided by the total number of parking bays utilised by all Members of the Residential Component 1 (or their respective successors-in-title), as the case may be.

## 16. **SIGNAGE**

- 16.1. Subject to the provisions of Rule 16.2 below, no Member shall affix, or allow to be affixed, any signage, object, apparatus or other material to the exterior of any part of the Building(s) and/or on any part of the Shared Common Areas without the prior written consent of the Body Corporate Trustees (by way of a Special Resolution). The aforesaid consents (if granted) shall at all times be and remain subject to the proposed signage, object, apparatus or other material:
- 16.1.1. comply with any signage and/or design guideline issued by the Developer and/or the Trustees, as well as with any provision in the HAPOA MOI regulating same;
  - 16.1.2. not in any way detract from the corporate image of the Building(s) and/or the Retail Component; and
  - 16.1.3. not in any way compete with the Member(s) of the Retail Component or their tenants/operators/occupiers.
- 16.2. Notwithstanding the provisions of Rule 16.1, the Developer (and its successors-in-title) as the owner of the Section comprising the Retail Component are hereby granted the right, in perpetuity, to affix, or allow to be affixed, signage, objects, apparatus or other materials in compliance with the then applicable signage and/or design guidelines in terms of this Constitution and/or the HAPOA MOI as contemplated in Rule 16.1 in the positions on the Building Components identified in the signage and/or design guidelines, which signage areas shall be regarded, for all intents and purposes, as exclusive use areas allocated in terms of these Rules, for the exclusive use by the Retail Component and the owner(s) of the Section(s) comprising the Retail Component shall be entitled to permit third parties to use the said exclusive use signage areas and to derive income for their own benefit therefrom.
- 16.3. Any dispute between the Body Corporate and a Member as to whether or not the said signage and/or design guideline(s) will be or have been infringed, will be resolved in accordance with the provisions of Rule 24.
- 16.4. Subject to the specified Members' signage rights in terms of Rules 16.1 and 16.2 above, no Member may, whether for consideration or otherwise, permit any third party to advertise or promote anything on the Building(s) and/or Building Components in question, without the prior written consent of the Body Corporate.

## 17. **RIGHT TO EXTEND**

17.1. The Developer will upon opening of the Sectional Title Scheme impose the undermentioned conditions in terms of section 25 of the STA:

17.1.1. in terms of section 11(2) of the STA, the Developer hereby reserves the right to erect and complete from time to time, but by no later than 50 (fifty) years from the date of coming into existence of the Body Corporate, for its personal account:

17.1.1.1. further buildings and horizontal extensions; and

17.1.1.2. vertical extensions of the existing Building(s),

on specified parts of the Common Property and to divide such building(s) into a Section or Sections and Common Property and to confer the right of exclusive use over parts of such Common Property upon the Member or Members of one or more of such Sections; and

17.2. Subject further to the following condition imposed by the Developer in terms of section 11(2) of the STA:

17.2.1. the Developer shall also be entitled to create new Exclusive Use Areas in terms of section 27 of the STA and to cancel existing Exclusive Use Areas; and

17.2.2. no Member nor any holder of a registered real right in a Section or over any part of the Common Property shall be entitled to oppose or withhold their consent to the passing of either a Special Resolution or Unanimous Resolution for the cancellation or creation of Exclusive Use Areas as referred to in Rule 17.2.1. All such Members and holders of real rights shall be deemed to have consented in writing to any such amendments and the duly authorised representatives of the Developer shall be deemed to be authorised by the Trustees of the Body Corporate to sign any and all documentation to give effect to such cancellation, creation and/or the acts of registration arising therefrom.

## 18. **SERVITUDES**

Certain servitudes have been registered in respect of the Scheme, as reflected in Annexure B hereto. The persons in whose favour the said servitudes have been registered, will at all times have the unfettered right of reasonable access to the servitude areas as identified.

## 19. **CONTRACTS, REGULATIONS AND ACCESS**

19.1. The Trustees may from time to time:

19.1.1. make rules governing *inter alia*:

19.1.1.1. the Members' rights of use, occupation and enjoyment of the Common Property;

19.1.1.2. the external appearance of and the maintenance of the Building(s) and the Common Property and/or other improvements erected thereon;

19.1.2. enter into agreement(s) with the local or other competent authorities governing the matters set out in Rule 19.1.1 and any other incidental matters, subject however to the written approval of the HAPOA (where applicable).

19.2. Each Member undertakes to the Body Corporate that they shall comply with:

19.2.1. the provisions of this Constitution;

- 19.2.2. any rules made in terms of Rule 19.1.1; and
- 19.2.3. any agreements referred to in Rule 19.1.2 insofar as those agreements may directly or indirectly impose obligations on him; and
- 19.2.4. the memorandum of incorporation of HAPOA and any regulations issued in terms thereof.

19.3. All officials, employees and contractors employed by the Body Corporate or the Building Components (as the case may be), the HAPOA, the local or other competent authority and/or any public service company shall, at all times, for purposes of inspecting and/or maintaining all services supplied and/or traversing any part thereof, have reasonable access to the Building(s), the Common Property and, to the extent necessary, the Sections.

## 20. **DUTIES OF MEMBERS AND OCCUPIERS OF SECTIONS**

### 20.1. **General**

20.1.1. In addition to his obligations in terms of section 13 of the STSMA, a Member:

- 20.1.1.1. of the Residential Component 1, shall under no circumstances be entitled to enter into a lease agreement (whether oral or in writing) in respect of their Section and/or Exclusive Use Area in terms whereof such Section and/or Exclusive Use Area is leased to any third party for a period of less than 6 (six) months. To this end and for the sake of clarity, it is recorded that Members of the Residential Component 1 shall not allow their Sections to form part of a rental pool and/or to be utilised (whether directly or indirectly) for short term rental accommodation such as *Airbnb* or similar and/or for a period of less than 6 (six) months;
- 20.1.1.2. shall not use his Section, Exclusive Use Area or any part of the Common Property, or permit it to be used, in such a manner or for such purpose as shall be injurious to the reputation of the Scheme, the Building Components and/or the Body Corporate;
- 20.1.1.3. shall not use his Section, Exclusive Use Area or any part of the Common Property, or permit it to be used, for:
  - 20.1.1.3.1. activities which emit a loud or obnoxious noise or bright lights (such as strobe lights) that unreasonably interfere with the enjoyment of the Building(s) or Common Property by other Members, occupants, guests and/or visitors of the Scheme; and/or
  - 20.1.1.3.2. a store which primarily sells discounted merchandise, such as a liquidation outlet, thrift store, pawn shop and/or flea market; and/or
  - 20.1.1.3.3. an automobile repair and/or paint shop, other than as part of an upmarket motor car dealership in the Retail Component only; and/or
  - 20.1.1.3.4. selling, leasing, exchanging, displaying, advertising and/or otherwise offering sexually explicit materials and/or services; and/or
  - 20.1.1.3.5. selling paraphernalia associated with illegal or dangerous drugs; and/or

- 20.1.1.3.6. a laundry or dry-cleaning business, other than the Retail Component or the Parking Component; and/or
  - 20.1.1.3.7. a lodging establishment; and/or
  - 20.1.1.3.8. a bar, restaurant, tavern, pub or discotheque, other than the Retail Component; and/or
  - 20.1.1.3.9. a business that primarily sells prepared meals, other than the Retail Component; and/or
  - 20.1.1.3.10. a casino or other gaming establishment; and/or
  - 20.1.1.3.11. a mortuary or cemetery; and/or
  - 20.1.1.3.12. an assisted-suicide facility; and/or
  - 20.1.1.3.13. storing or selling explosives and/or any dangerous or hazardous materials (including fireworks); and/or
  - 20.1.1.3.14. a veterinarian facility; and/or
  - 20.1.1.3.15. any unlawful and/or illegal activities; and/or
  - 20.1.1.3.16. any other purpose inconsistent with the quality of the Scheme or that may adversely affect the character, standard and/or reputation of the Body Corporate and/or the Scheme.
- 20.1.1.4. shall not contravene, or permit the contravention of, any law, by-law, ordinance, proclamation or statutory regulation, or the conditions of any license relating to or affecting the occupation of the Building(s) or the Common Property, or contravene or permit the contravention of the conditions of title applicable to his Section or any other Section or to his Exclusive Use Area (if any) or any other Exclusive Use Area;
  - 20.1.1.5. shall not make any alterations which are likely to impair the structural stability of the Building(s) or the use and enjoyment of other Sections, the Common Property or any Exclusive Use Area;
  - 20.1.1.6. shall not do anything to his Section or Exclusive Use Area which is likely to prejudice the harmonious appearance of the Scheme, the Building(s) and/or the Common Property;
  - 20.1.1.7. shall, when the purpose for which an Exclusive Use Area is intended to be used, is shown expressly or by implication on or by a registered sectional plan, not use, nor permit such Exclusive Use Area to be used, for any other purpose, provided that such Exclusive Use Area may be used for another purpose if so approved by Unanimous Resolution of the Members;
  - 20.1.1.8. shall not construct and/or place any structure or building improvement on his Section and/or Exclusive Use Area, without the prior written consent of the Trustees (which consent shall not be unreasonably withheld) and shall at its own costs and expense ensure that the provisions of sections 24 and 25 of the STA and other relevant provisions of the STA and the STSMA and/or this Constitution will not be contravened;



- 20.1.1.9. shall maintain the hot water installation which serves his Section, or, where such installation serves more than one Section, the Members concerned shall maintain such installation pro-rata, notwithstanding that such appliance may be situated on the Common Property and is insured in terms of a policy procured by the Body Corporate;
- 20.1.1.10. of a Section through which provision has been made for common services by means of any pipes, wires, cables, ducts and the like shall, at all reasonable times, allow the Body Corporate, the HAPOA or any person authorised by either of the them, to enter his Section for the purpose of effecting any maintenance or repair required to any such pipes, wires, cables, ducts and the like;
- 20.1.1.11. shall not, without the prior written consent of the Body Corporate, be entitled to:
- 20.1.1.11.1. connect into or otherwise draw power from any generators or other back-up electricity installations at the Scheme; or
- 20.1.1.11.2. install an air-conditioning unit or system in his Section(s).
- 20.1.2. A Member who exercises his rights (if any) in terms of section 60(3) of the STA shall bear all costs to give effect thereto.
- 20.1.3. All improvements and/or additions to and/or maintenance and repair of the Common Property shall be effected in accordance and conformity with the standards and aesthetics prescribed from time to time by the Body Corporate and the HAPOA (where applicable).

## 21. **BINDING NATURE OF THIS CONSTITUTION**

The provisions of this Constitution and the duties of a Member in relation to the use and occupation of a Section(s), Exclusive Use Areas and the Common Property shall be binding on the Member and any tenant or other occupant of any Section, and it shall be the duty of the Member to ensure compliance with this Constitution, and any Rules issued pursuant thereto, by his tenant or other occupant, including their respective employees, guests, invitees, service providers, contractors and any member of his family.

## 22. **MEMBER'S FAILURE TO MAINTAIN**

22.1. If a Member:

- 22.1.1. fails to repair or maintain his Section and/or Exclusive Use Area or to keep it clean and in a state of good repair as required by section 13(1)(c) of the STSMA; and/or
- 22.1.2. fails to maintain adequately any area of the Common Property allocated for his exclusive use and enjoyment,

and any such failure persists for a period of 14 (fourteen) days after the Trustees (or managing agent on their behalf) have given written notice to repair or maintain, the Trustees (and/or the managing agent on their behalf), shall be entitled to remedy the Member's failure and to recover the reasonable cost of doing so from such Member, which cost shall be added to the Member's monthly Levy contribution.

## 23. **BREACH**

### 23.1. Should any Member:

- 23.1.1. fail to pay by the due date any amount due by that Member in terms of this Constitution or any Rules made thereunder and fail to rectify the breach within 24 (twenty four) hours after being notified in writing to do so by the Body Corporate; or
- 23.1.2. commit any other breach of any of the provisions of this Constitution or any Rule made hereunder and fail to commence remedying that breach within a period of 7 (seven) days after the receipt or deemed receipt of written notice to that effect by the Body Corporate and complete the remedying of such breach within a reasonable time (as determined by the Body Corporate in its sole and absolute discretion having due regard to the nature of the breach);

then and in either such event, the Body Corporate shall be entitled, without prejudice to any other rights or remedies which the Body Corporate may have in law, including the right to claim damages:

- (a) to institute legal proceedings against such Member for payment of such overdue amount or for performance of his obligations in terms of this Constitution or any Rule made hereunder, as the case may be; and/ or
- (b) insofar as may be permitted by law, to suspend all or any services to the Section owned by that Member until such time as the breach is in fact remedied; and/or
- (c) in the case of Rule 23.1.2, to remedy such breach on behalf of the Member and immediately recover the total cost incurred by the Body Corporate in so doing from such Member, which cost shall be added to the Member's monthly Levy contribution.

23.2. Should the Body Corporate institute any legal proceedings against any Member pursuant to a breach by that Member of this Constitution or any rule made hereunder, then without prejudice to any other rights which the Body Corporate may have in law, the Body Corporate shall be entitled to recover from such Member all legal costs incurred by the Body Corporate on an attorney and own client scale together with VAT thereon (where applicable), including but not limited to tracing fees and collection commission(s).

23.3. Without prejudice to all or any of the rights of the Body Corporate granted in terms of this Constitution, should any Member fail to pay any amount due by that Member on due date, then such Member shall pay interest thereon at the maximum legally prescribed rate, calculated from the due date for payment until the date of actual receipt of such amount(s) by the Body Corporate.

## 24. **DISPUTE RESOLUTION: MEDIATION & ARBITRATION**

24.1. With regard to any dispute, question or difference arising at any time between Members and/or between a Member(s) and the Trustees out of or in regard to:

- 24.1.1. any matters arising out of this Constitution; and/or
- 24.1.2. the rights and duties of any of the parties mentioned in this Constitution; and/or
- 24.1.3. the interpretation of this Constitution,

the Parties shall first try to resolve the dispute by negotiation, by inviting the other Party in writing to meet and attempt to resolve the dispute within 7 (seven) days from the date of the written invitation, and exhaust all mediation remedies available.

- 24.2. In the event of the parties being unable to resolve the dispute by negotiation and mediation not being successful, either party to the dispute may elect to either proceed with arbitration (as detailed below) or to refer the dispute to the Community Schemes Ombud Service (“CSOS”), provided however that:
- 24.2.1. the dispute falls within the ambit of section 39 of the Community CSOS Act 9/2011; and
- 24.2.2. all matters falling outside the ambit of section 39 of the CSOS Act 9/2011 shall be submitted to and decided by arbitration (as detailed below) on written notice given by any party to the dispute to the other party(ies) to be dealt with in accordance with the Uniform Rules of Court made in terms of the Supreme Court Act, 59 of 1959 (“**the Supreme Court Act**”).
- 24.3. Subject to the parties being unable to resolve the dispute by negotiation and all mediation remedies having been exhausted, either party may declare a dispute to be referred to arbitration as envisaged in Rule 24.2.2 by giving written notice to that effect to the other party.
- 24.4. The arbitration shall be held:
- 24.4.1. in English;
- 24.4.2. at Cape Town;
- 24.4.3. with only the legal and other representatives of the parties to the dispute present thereat;
- 24.4.4. *mutatis mutandis* in accordance with the provisions of the Supreme Court Act, the Uniform Rules and the practice directives of the High Court of South Africa, Western Cape High Court, Cape Town; and
- 24.4.5. otherwise in terms of the Arbitration Act, No 42 of 1965 (“**Arbitration Act**”), unless otherwise provided for herein or agreed between the parties in writing.
- 24.5. Save as otherwise specifically provided herein, the arbitrator shall be, if the question in dispute is:
- 24.5.1. primarily a financial matter, an independent accountant or auditor of at least 10 (ten) years’ standing and registered with the South African Institute of Chartered Accountants, agreed upon between the parties or, failing agreement within 5 (five) days of the notice referred to in Rule 24.3, appointed by the South African Institute of Chartered Accountants; or
- 24.5.2. primarily a legal matter, a practising advocate of the local Bar Council of at least 10 (ten) years’ standing, agreed upon between the parties or, failing agreement within 5 (five) business days of the notice referred to in Rule 24.3, appointed by the local Bar Council; or
- 24.5.3. primarily an architectural matter, a construction matter and/or a development matter, an independent architect of at least 10 (ten) years’ standing, agreed upon between the parties or, failing agreement within 5 (five) business days of the notice referred to in Rule 24.3, appointed by the South African Council for the Architectural Profession.
- 24.6. If agreement cannot be reached on whether the question in dispute falls under Rules 24.5.1, 24.5.2 or 24.5.3 within 5 (five) business days of the notice referred to in Rule 24.1, then:
- 24.6.1. the local Bar Council or its successors-in-title shall determine whether the question in dispute falls under Rules 24.5.1, 24.5.2 or 24.5.3; and/or

24.6.2. either party to the dispute may request the local Bar Council to nominate the arbitrator in terms of Rule 24.5 within 7 (seven) days after the parties have failed to agree, so that the arbitration can be held and concluded as soon as possible.

24.7. The parties hereby consent to the jurisdiction of the High Court of South Africa in respect of the proceedings referred to herein.

24.8. The arbitrator shall make his award within 14 (fourteen) days after completion of the arbitration or as soon as is reasonably and practically possible thereafter having due regard to the nature of the dispute, and shall in giving his award have regard to the principles laid down in terms of this Constitution. The arbitrator may determine that the cost of the arbitration may be paid either by one or other of the disputing parties or by the Body Corporate as their in his sole discretion may deem fit.

24.9. Subject to the provisions of Rule 24.10, the decision of the arbitrator shall, save for a manifest error, be final and binding on the parties to the dispute and may be made an order of the court referred to in Rule 24.7 at the instance of any of the parties to the dispute.

24.10. In the event that a party to the dispute wishes to appeal the decision of the arbitrator, such party shall apply to the arbitrator for leave to appeal in accordance with the provisions of the Uniform Rules and the practice directives of the High Court of South Africa, Western Cape High Court, Cape Town.

24.11. In the event that a party to the dispute is granted leave to appeal the decision of the arbitrator, such appeal shall be held:

24.11.1. before 3 (three) arbitrators appointed, subject to Rules 24.5 and 24.6; and

24.11.2. *mutatis mutandis* in accordance with the provisions of the Supreme Court Act, the Uniform Rules and the practice directives of the High Court of South Africa, Western Cape High Court, Cape Town.

24.12. The Parties agree to keep the negotiation, mediation and arbitration envisaged herein (including the subject matter thereof and the evidence heard during the arbitration) confidential and not to disclose it to anyone except for purposes of obtaining an order as contemplated in Rule 24.9.

24.13. Nothing contained in this Rule 24 shall prohibit either party from approaching any court of competent jurisdiction for urgent interim relief.

## **25. NO REFUNDS OR DISTRIBUTION OF PROFITS OR ASSETS**

25.1. The Members shall not be entitled to a refund of Levies, Special Contributions and/or other charges lawfully levied upon them and duly paid by them.

25.2. No portion of the profits or gains of the Body Corporate shall be distributed to any Member, Trustee, managing agent and/or any other person.

26. **AMENDMENT TO CONSTITUTION**

26.1. None of the Rules contained in this Constitution shall be substituted, repealed or amended, and no new Rules shall be added unless:

26.1.1. approved by Special Resolution of the Members; and

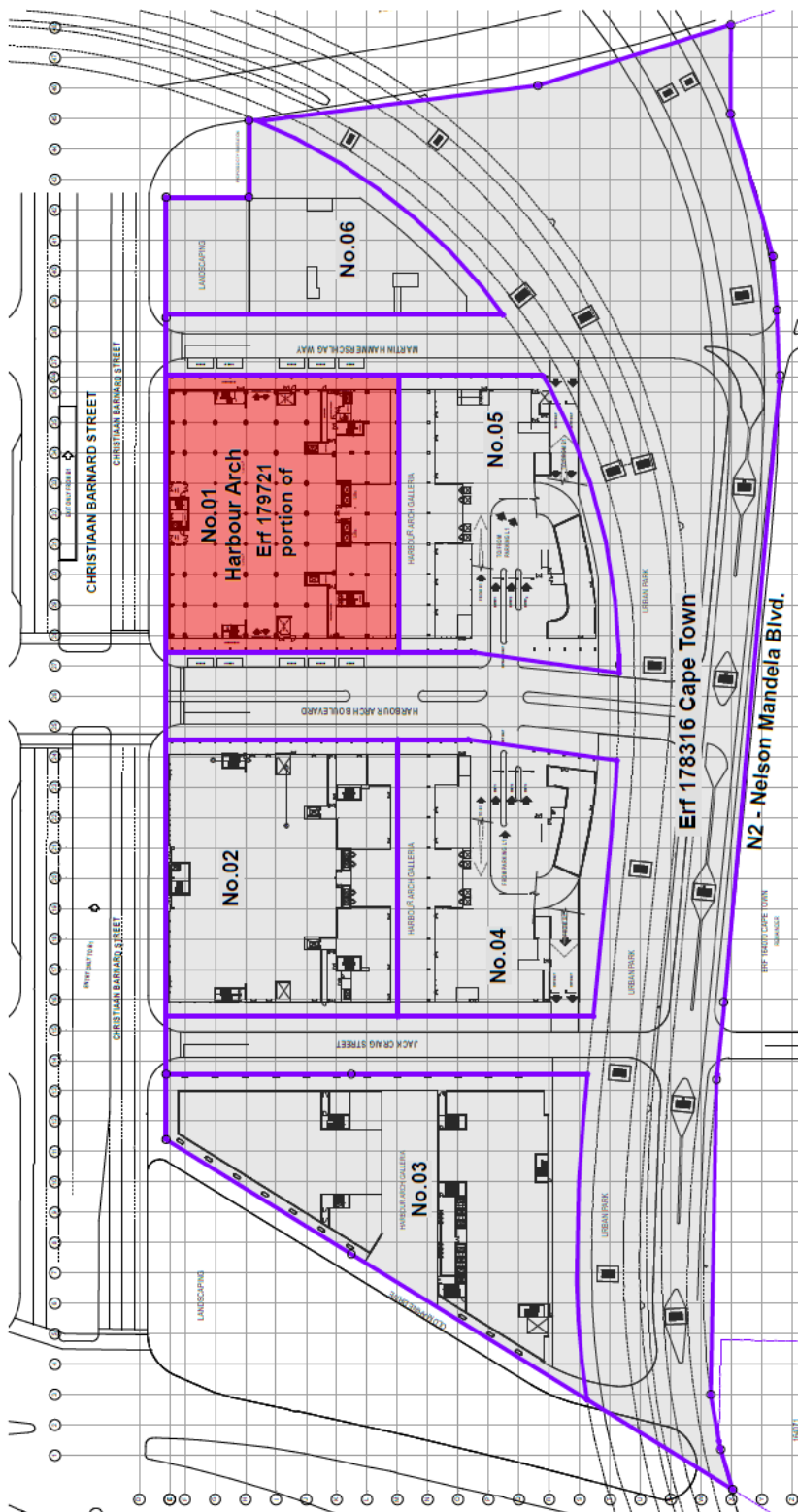
26.1.2. CSOS has approved the relevant substitution, repeal and/or amendment (as the case may be) by issuing a certificate as required in terms of section 10(5) of the STSMA.

26.2. The relevant substitution(s), repeal(s) and/or amendment(s) shall come into effect on the date of the opening of a sectional title register in respect of the Scheme or on the date CSOS issues a certificate as required in terms of section 10(5) of the STSMA, whichever is the later.

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**ANNEXURE A**

**SITE PLAN**  
**(SHOWING THE LOCATION ON THE SCHEME ON THE PROPERTY)**

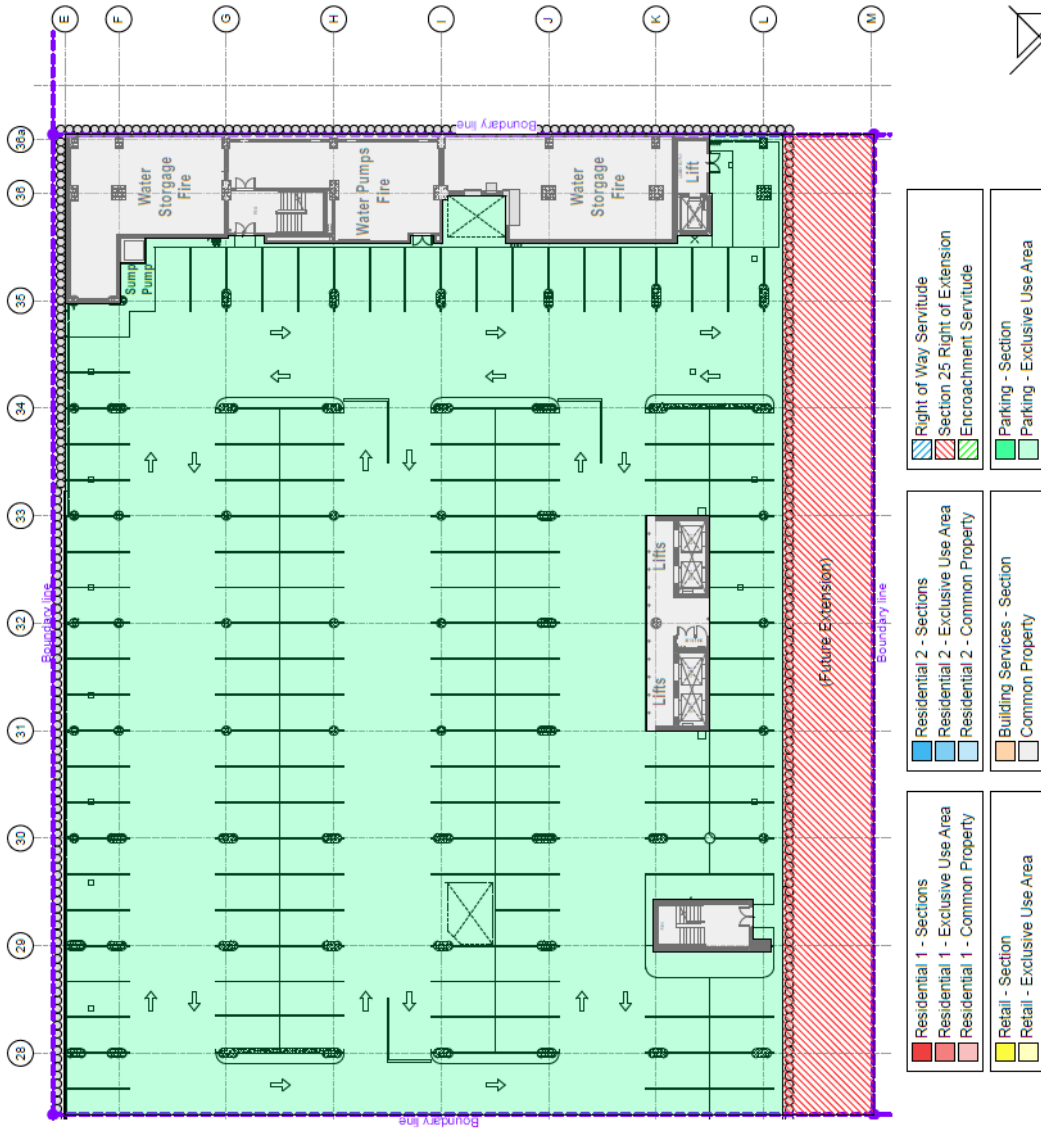


- No. 1 Harbour Arch - Erf 179721 portion of Erf 178316 Cape Town
- Erf 178316 Cape Town
- Subdivision Lines

**Annexure A - Site Layout**    Date - Thursday, March 02, 2023

**ANNEXURE B**

**SCHEME LAYOUTS: BUILDING COMPONENTS, EXCLUSIVE USE AREAS,  
PRIVATE COMMON AREAS & SHARED COMMON AREAS**



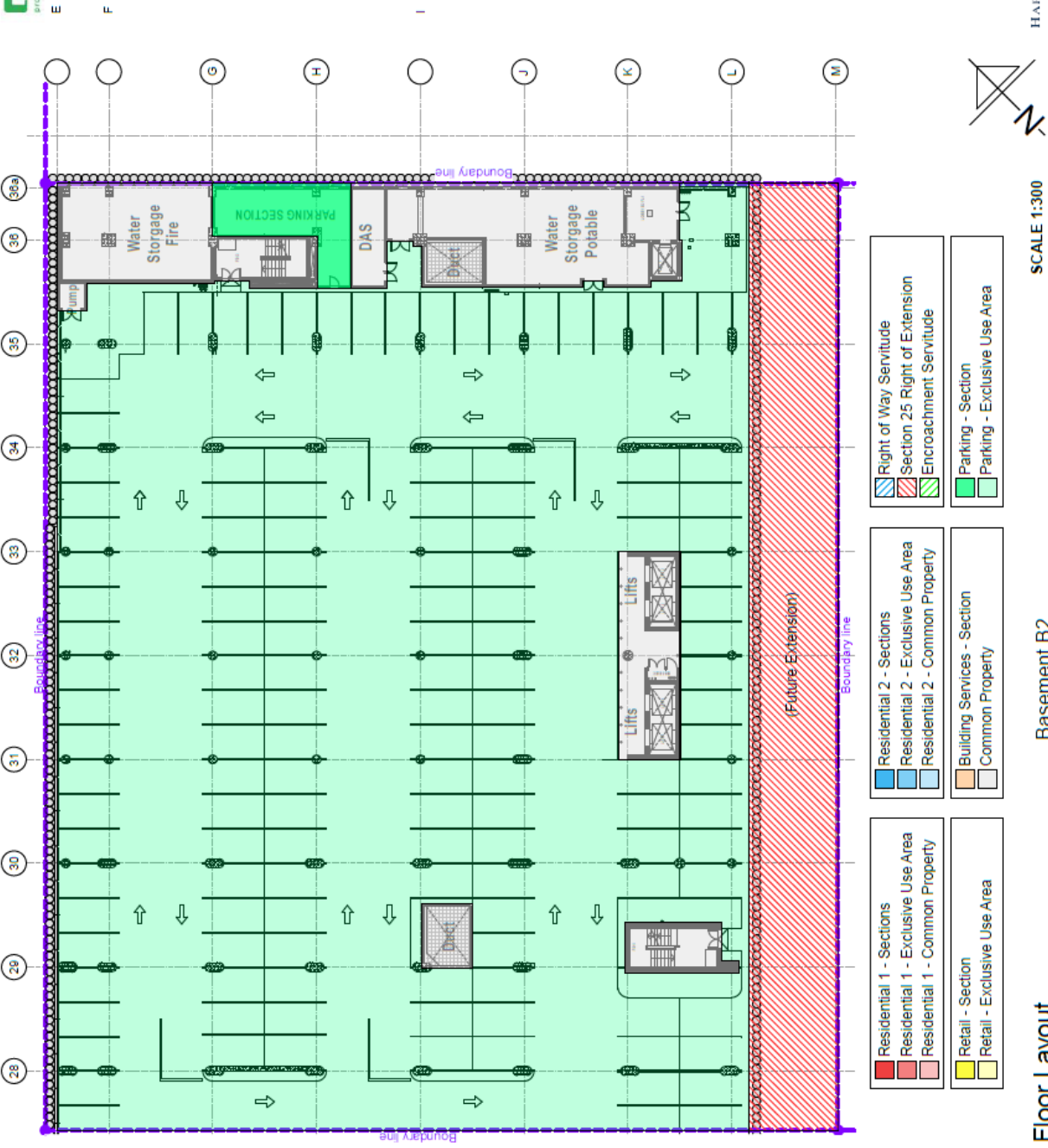
Date : Thursday, March 02, 2023

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Basement B3

Annexure B - Scheme Floor Layout





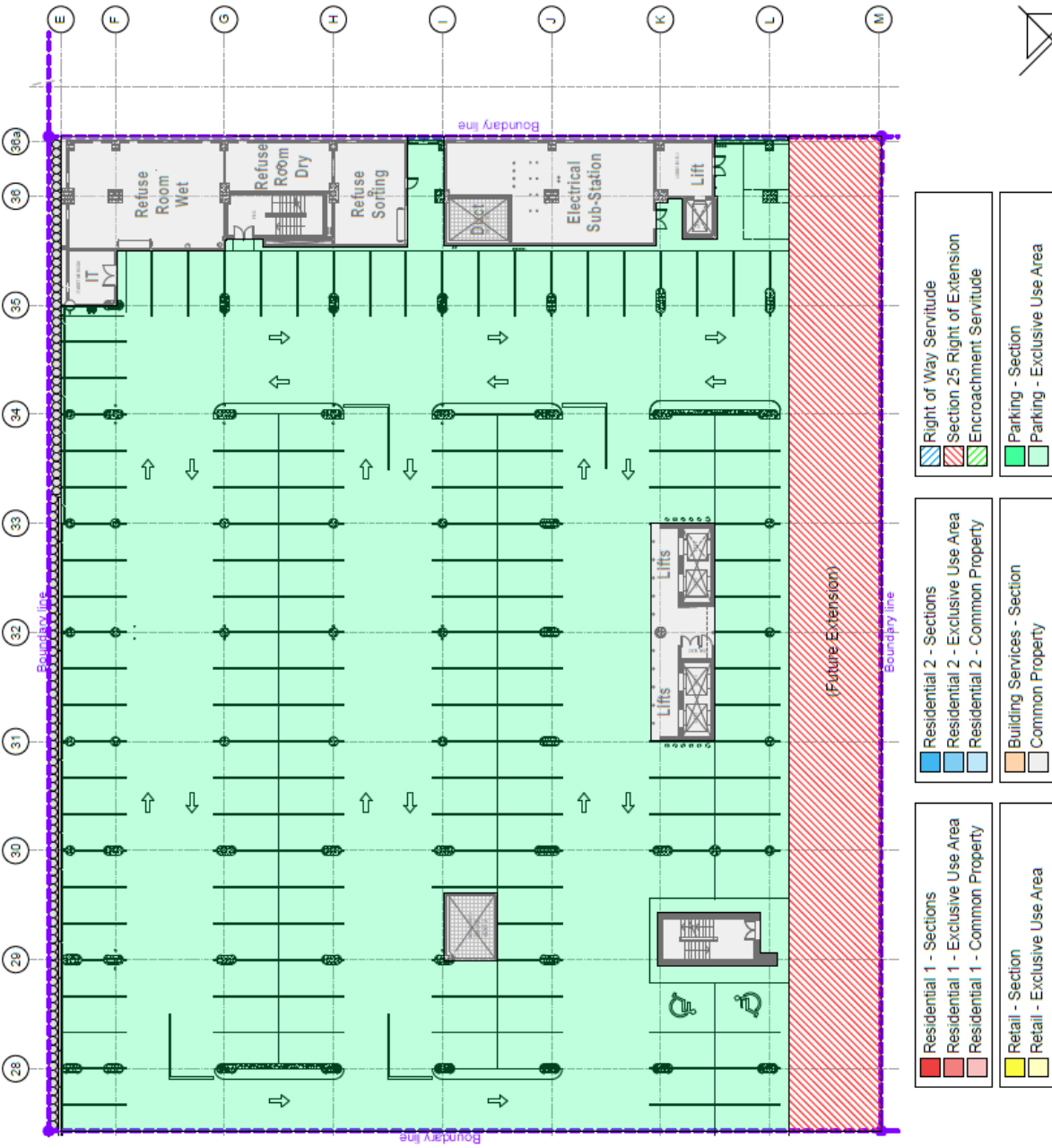
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Basement B2

Annexure B - Scheme Floor Layout

|   |   |
|---|---|
| <ul style="list-style-type: none"> <li>Residential 1 - Sections</li> <li>Residential 1 - Exclusive Use Area</li> <li>Residential 1 - Common Property</li> </ul> | <ul style="list-style-type: none"> <li>Right of Way Servitude</li> <li>Section 25 Right of Extension</li> <li>Encroachment Servitude</li> </ul> |
| <ul style="list-style-type: none"> <li>Retail - Section</li> <li>Retail - Exclusive Use Area</li> </ul>   | <ul style="list-style-type: none"> <li>Parking - Section</li> <li>Parking - Exclusive Use Area</li> </ul>                                       |
| <ul style="list-style-type: none"> <li>Residential 2 - Sections</li> <li>Residential 2 - Exclusive Use Area</li> <li>Residential 2 - Common Property</li> </ul> | <ul style="list-style-type: none"> <li>Building Services - Section</li> <li>Common Property</li> </ul>  |

Date : Thursday, March 02, 2023



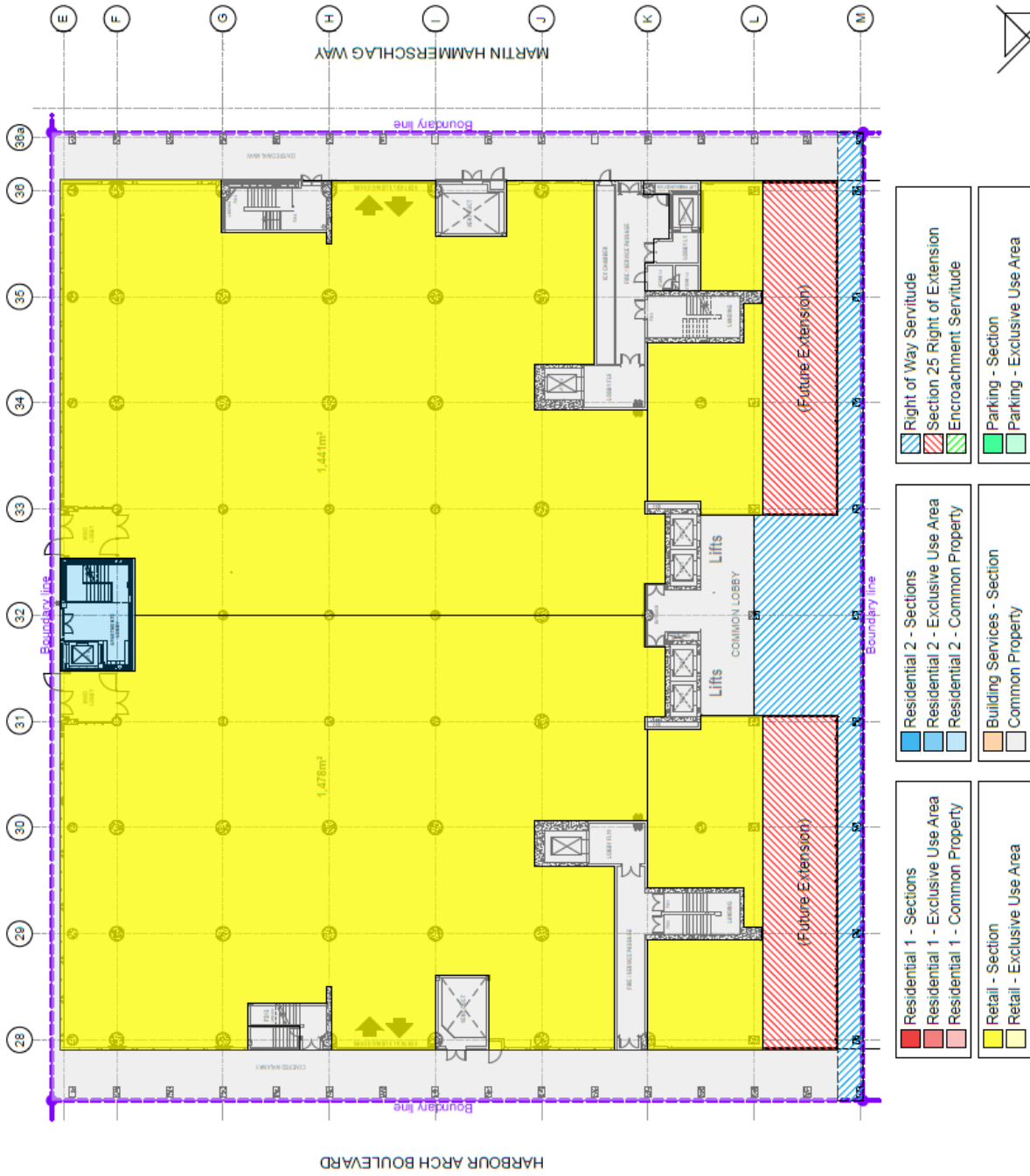
Date : Thursday, March 02, 2023



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Basement B1

Annexure B - Scheme Floor Layout

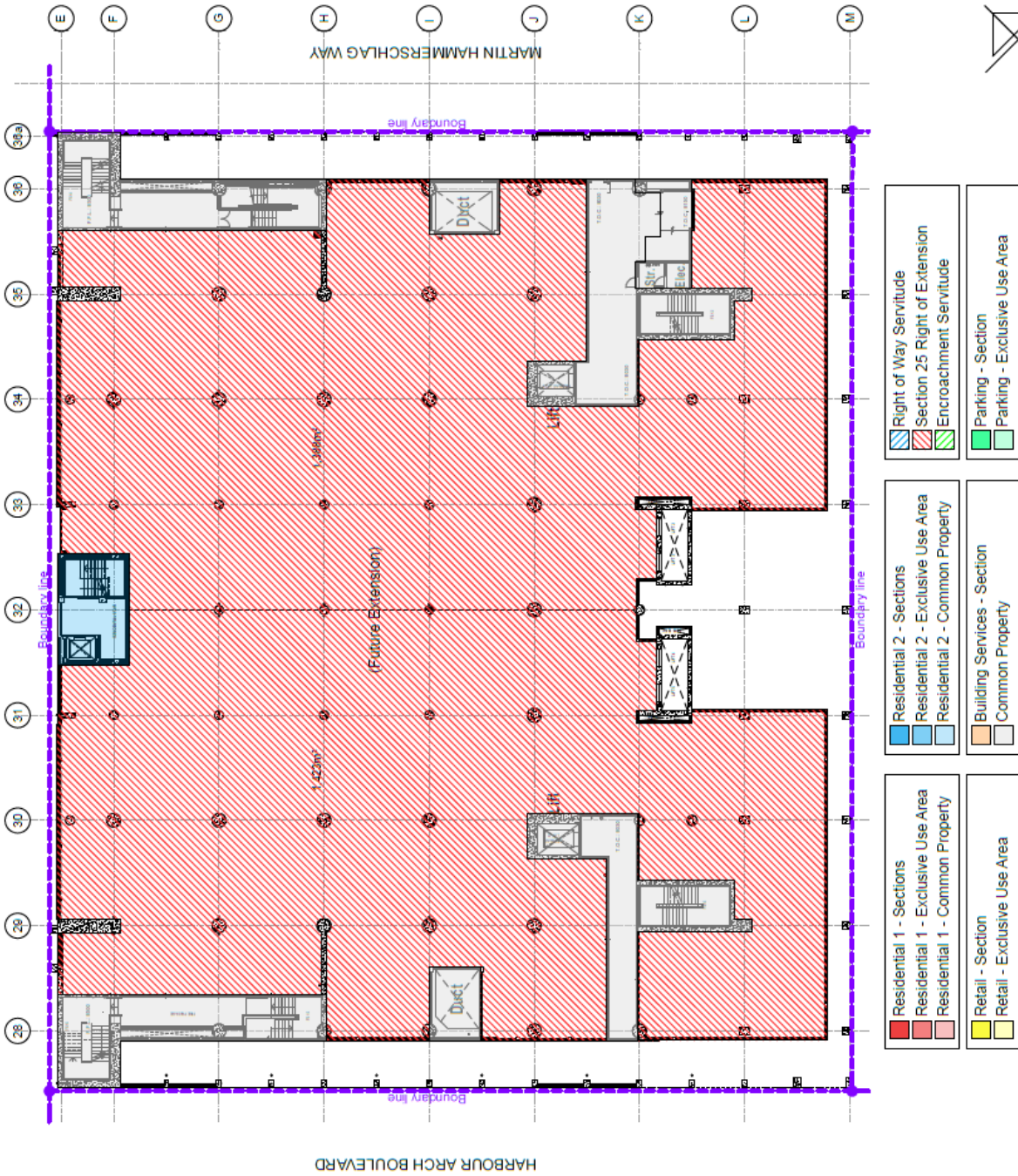


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Ground Floor

**Annexure B - Scheme Floor Layout**

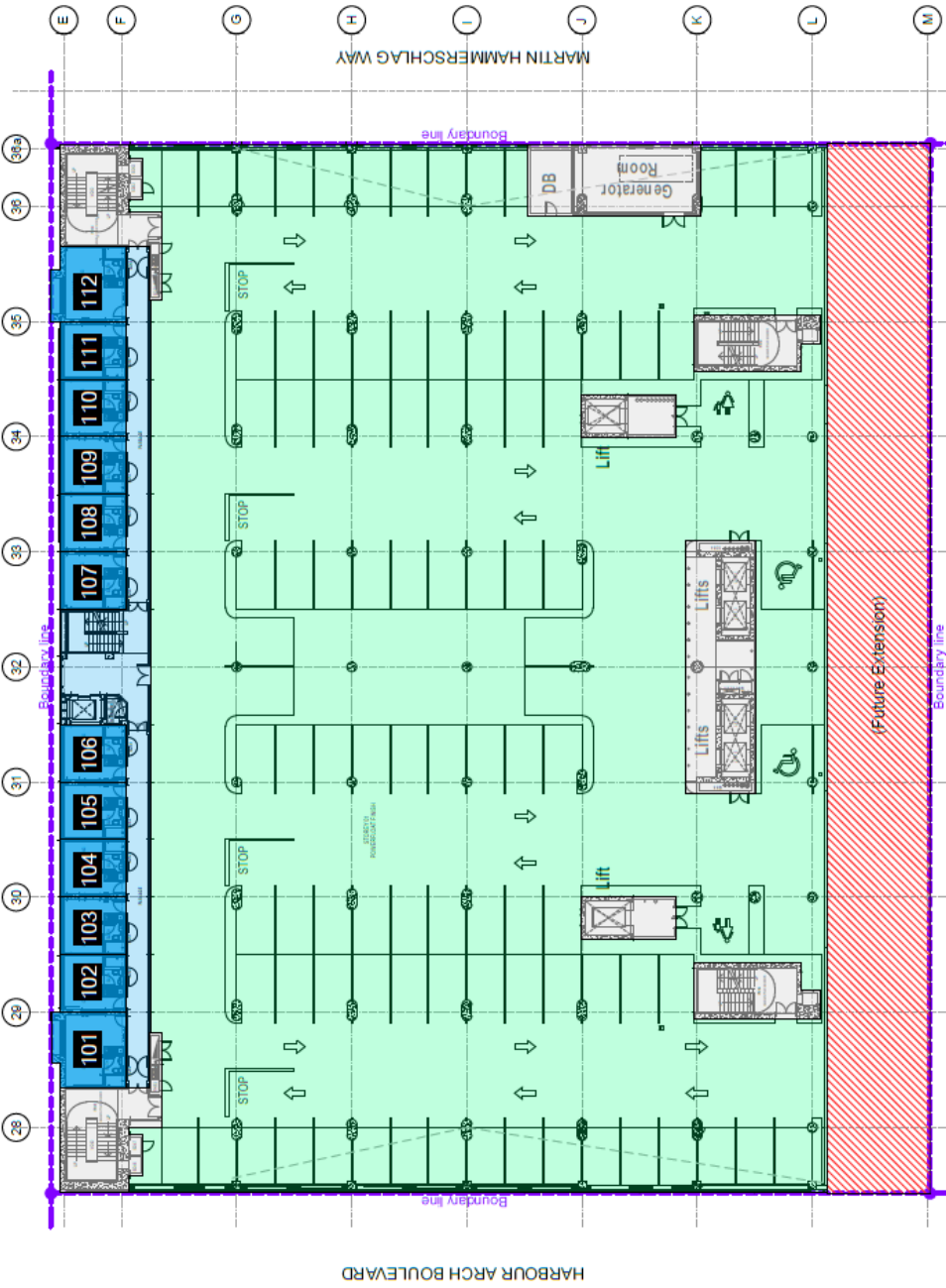
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|  | Right of Way Servitude        |  | Residential 2 - Sections           |  | Residential 1 - Sections           |
|  | Section 25 Right of Extension |  | Residential 2 - Exclusive Use Area |  | Residential 1 - Exclusive Use Area |
|  | Encroachment Servitude        |  | Residential 2 - Common Property    |  | Residential 1 - Common Property    |
|  | Parking - Section             |  | Building Services - Section        |  | Retail - Section                   |
|  | Parking - Exclusive Use Area  |  | Common Property                    |  | Retail - Exclusive Use Area        |



Ground Mezzanine

Annexure B - Scheme Floor Layout





|  |   |  |
|--|---|--|
| <ul style="list-style-type: none"> <li>Residential 1 - Sections</li> <li>Residential 1 - Exclusive Use Area</li> <li>Residential 1 - Common Property</li> <li>Retail - Section</li> <li>Retail - Exclusive Use Area</li> </ul> | <ul style="list-style-type: none"> <li>Residential 2 - Sections</li> <li>Residential 2 - Exclusive Use Area</li> <li>Residential 2 - Common Property</li> <li>Building Services - Section</li> <li>Common Property</li> </ul> | <ul style="list-style-type: none"> <li>Right of Way Servitude</li> <li>Section 25 Right of Extension</li> <li>Encroachment Servitude</li> <li>Parking - Section</li> <li>Parking - Exclusive Use Area</li> </ul> |
|--|---|--|

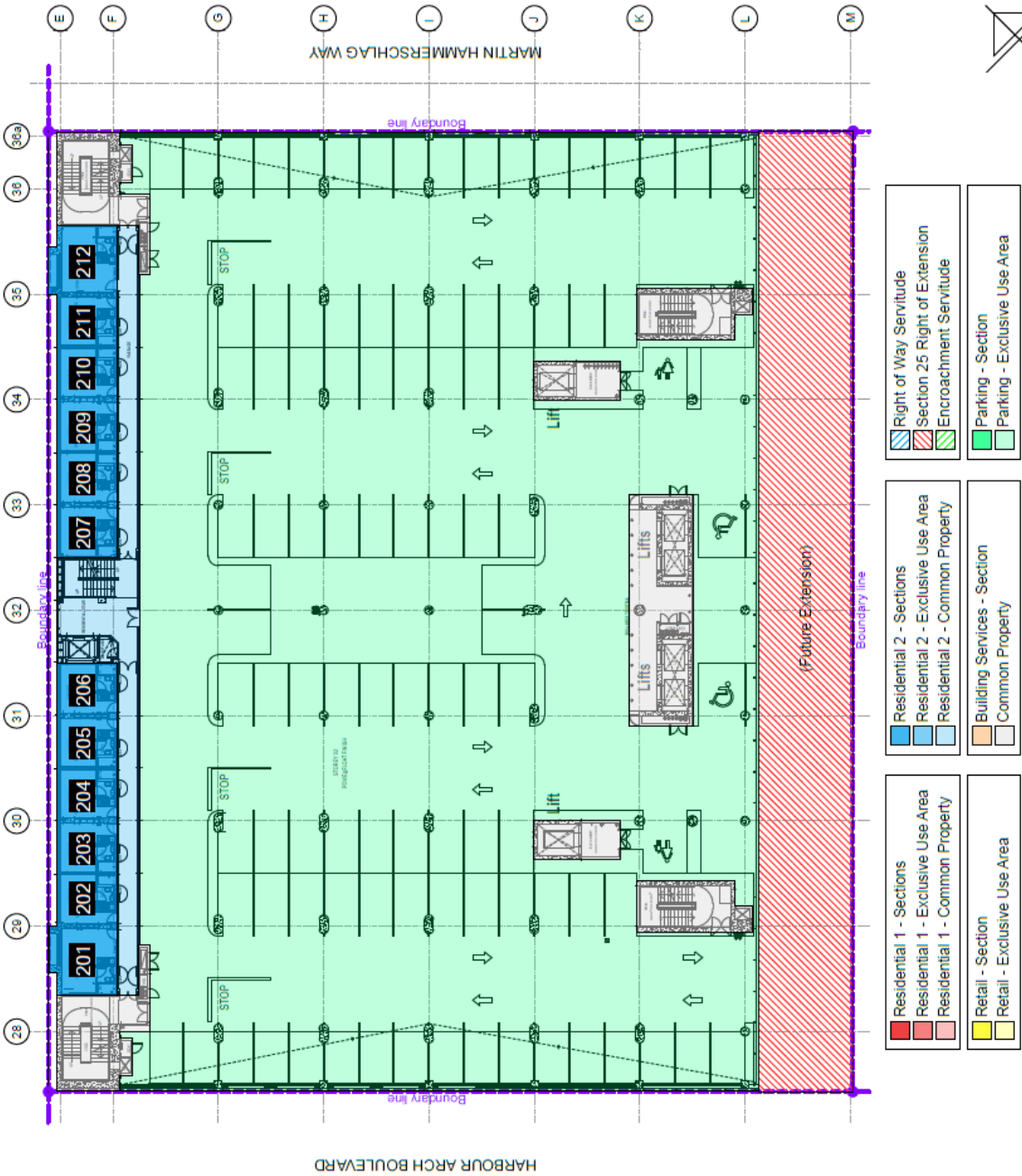


SCALE 1:300

Parking Level 1

**Annexure B - Scheme Floor Layout**

Date - Thursday, March 02, 2023



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|  |                               |
|--|-------------------------------|
|  | Right of Way Servitude        |
|  | Section 25 Right of Extension |
|  | Encroachment Servitude        |
|  | Parking - Section             |
|  | Parking - Exclusive Use Area  |

|  |                                    |
|--|------------------------------------|
|  | Residential 2 - Sections           |
|  | Residential 2 - Exclusive Use Area |
|  | Residential 2 - Common Property    |
|  | Building Services - Section        |
|  | Common Property                    |

|  |                                    |
|--|------------------------------------|
|  | Residential 1 - Sections           |
|  | Residential 1 - Exclusive Use Area |
|  | Residential 1 - Common Property    |
|  | Retail - Section                   |
|  | Retail - Exclusive Use Area        |

Parking Level 2

### Annexure B - Scheme Floor Layout

Date : Thursday, March 02, 2023



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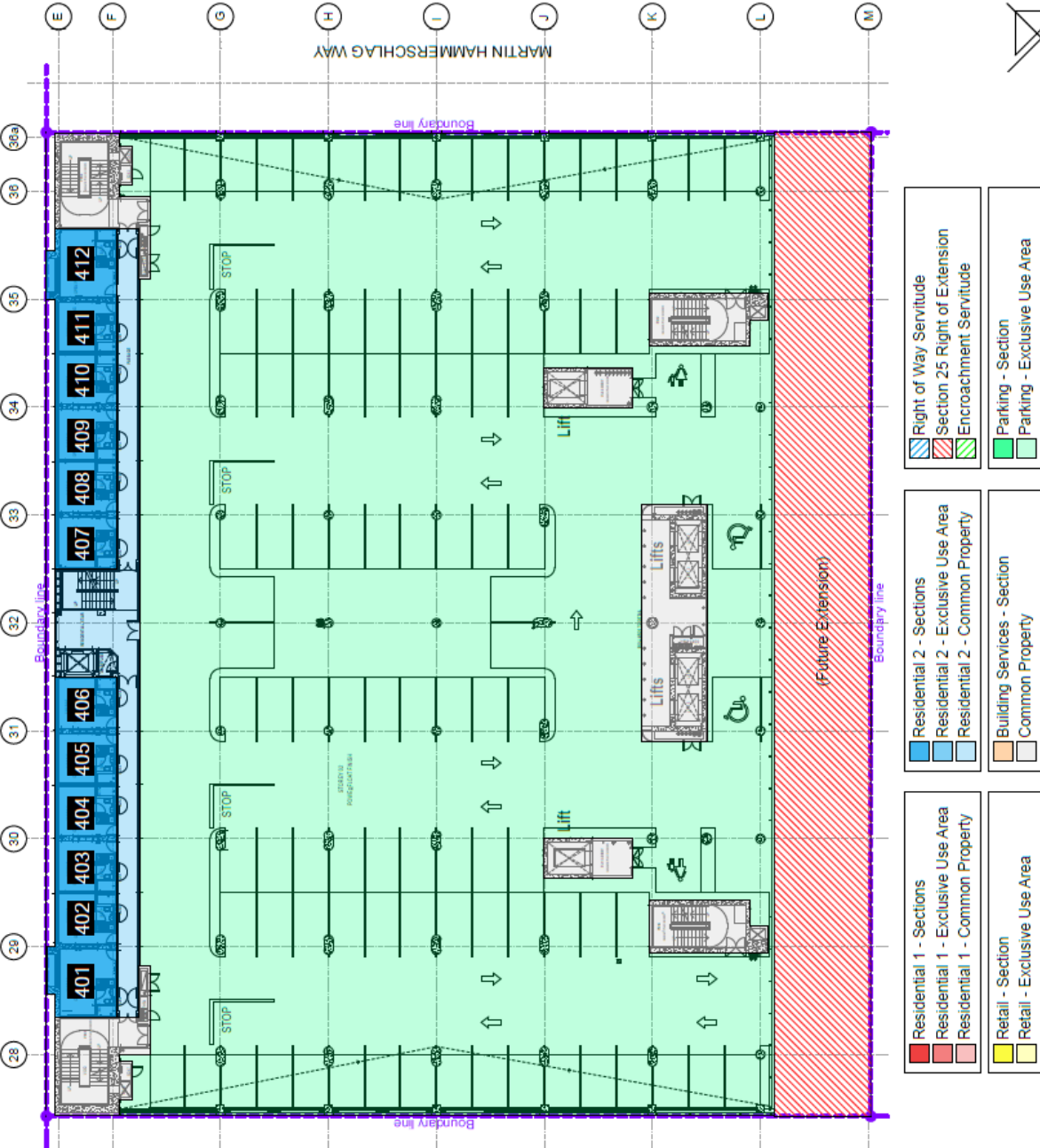
Parking Level 3

**Annexure B - Scheme Floor Layout**

Date : Thursday, March 02, 2023





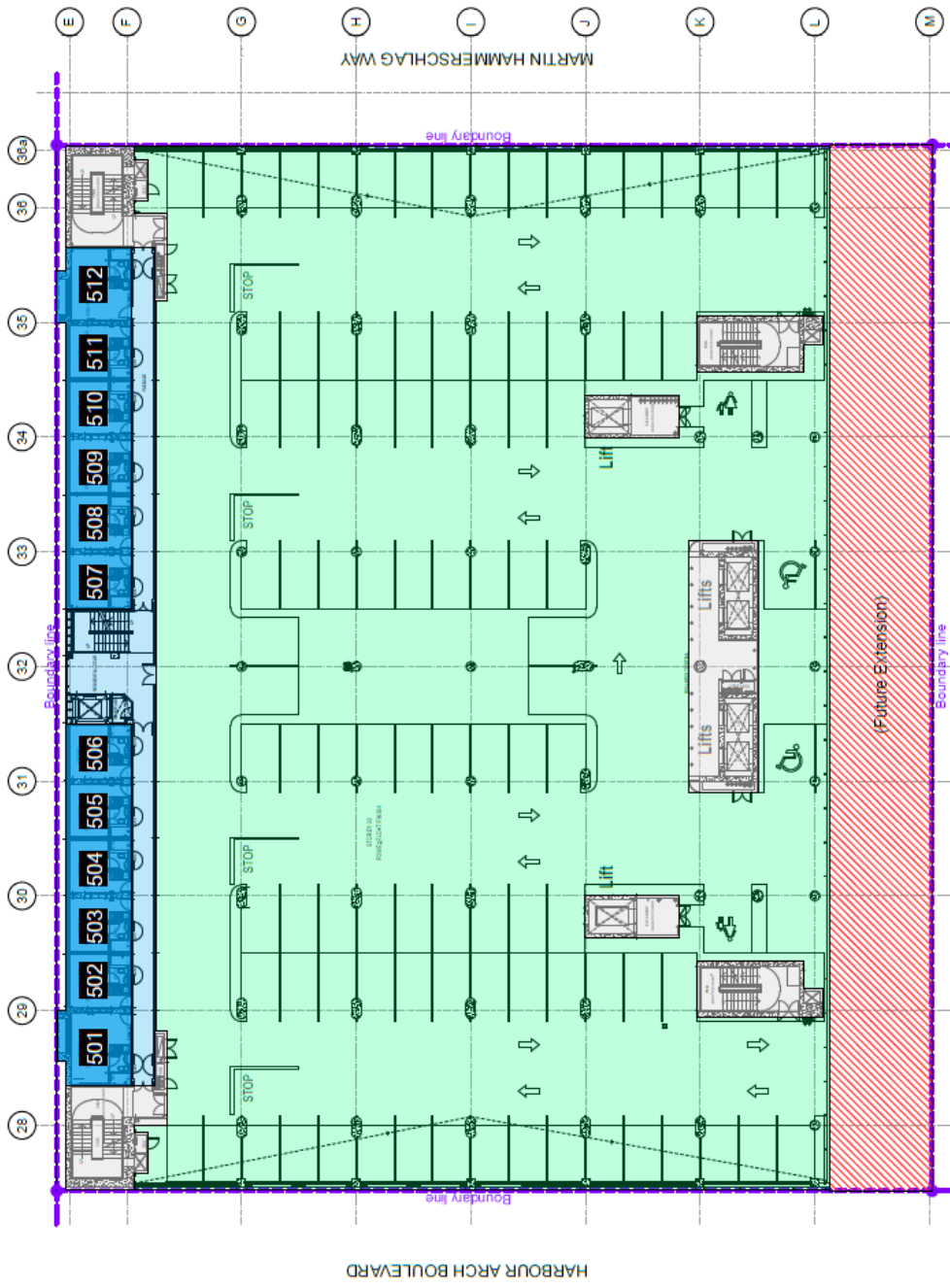


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Parking Level 4

**Annexure B - Scheme Floor Layout**

|  |                               |  |                                    |  |                                    |
|--|-------------------------------|--|------------------------------------|--|------------------------------------|
|  | Right of Way Servitude        |  | Residential 2 - Sections           |  | Residential 1 - Sections           |
|  | Section 25 Right of Extension |  | Residential 2 - Exclusive Use Area |  | Residential 1 - Exclusive Use Area |
|  | Encroachment Servitude        |  | Residential 2 - Common Property    |  | Residential 1 - Common Property    |
|  | Parking - Section             |  | Building Services - Section        |  | Retail - Section                   |
|  | Parking - Exclusive Use Area  |  | Common Property                    |  | Retail - Exclusive Use Area        |



|   |   |   |
|---|---|---|
| <ul style="list-style-type: none"> <li>Residential 1 - Sections</li> <li>Residential 1 - Exclusive Use Area</li> <li>Residential 1 - Common Property</li> </ul> | <ul style="list-style-type: none"> <li>Residential 2 - Sections</li> <li>Residential 2 - Exclusive Use Area</li> <li>Residential 2 - Common Property</li> </ul> | <ul style="list-style-type: none"> <li>Right of Way Servitude</li> <li>Section 25 Right of Extension</li> <li>Encroachment Servitude</li> </ul> |
| <ul style="list-style-type: none"> <li>Retail - Section</li> <li>Retail - Exclusive Use Area</li> </ul>   | <ul style="list-style-type: none"> <li>Building Services - Section</li> <li>Common Property</li> </ul>  | <ul style="list-style-type: none"> <li>Parking - Section</li> <li>Parking - Exclusive Use Area</li> </ul>                                       |

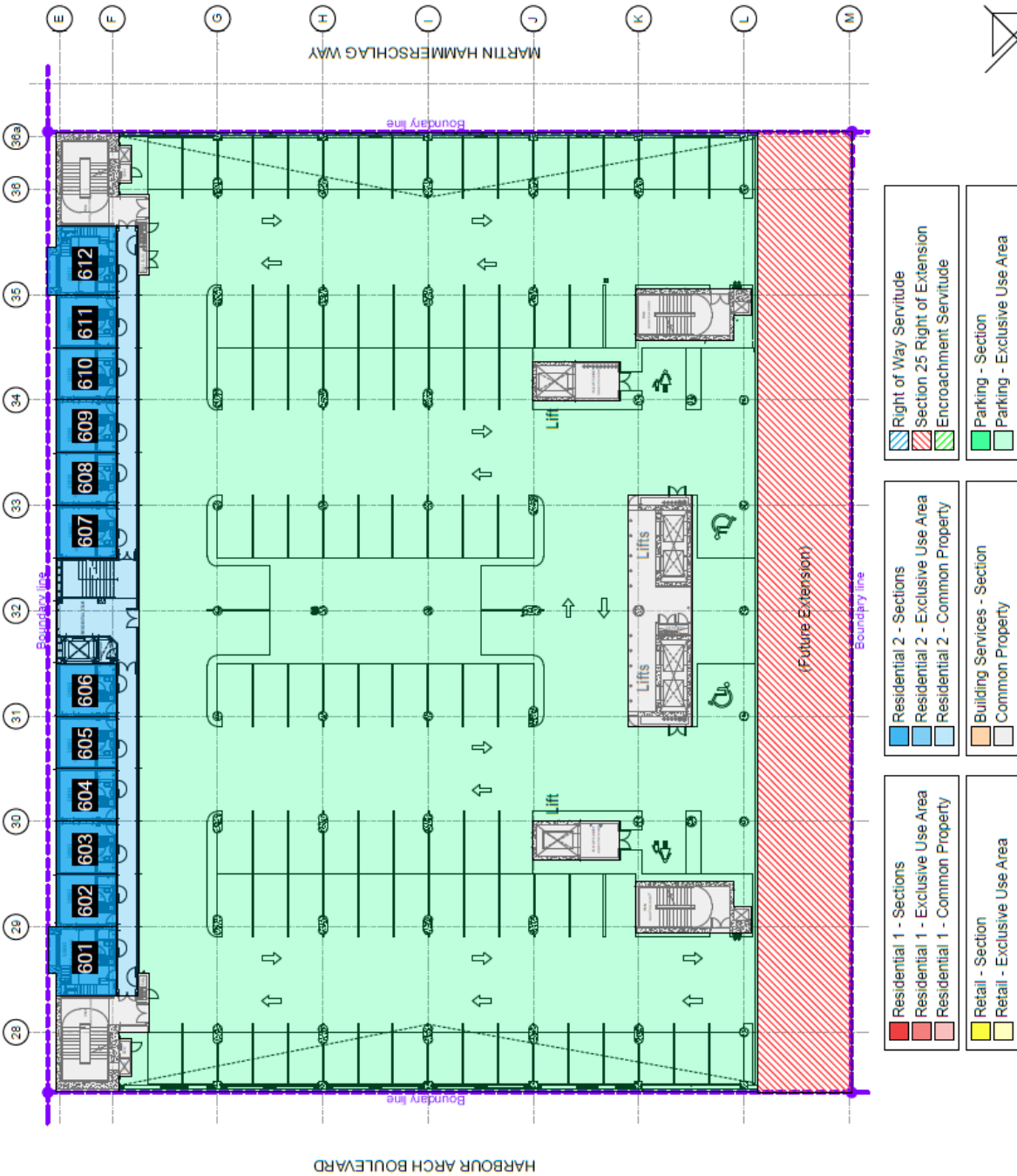


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Parking Level 5

**Annexure B - Scheme Floor Layout**

Date : Thursday, March 02, 2023



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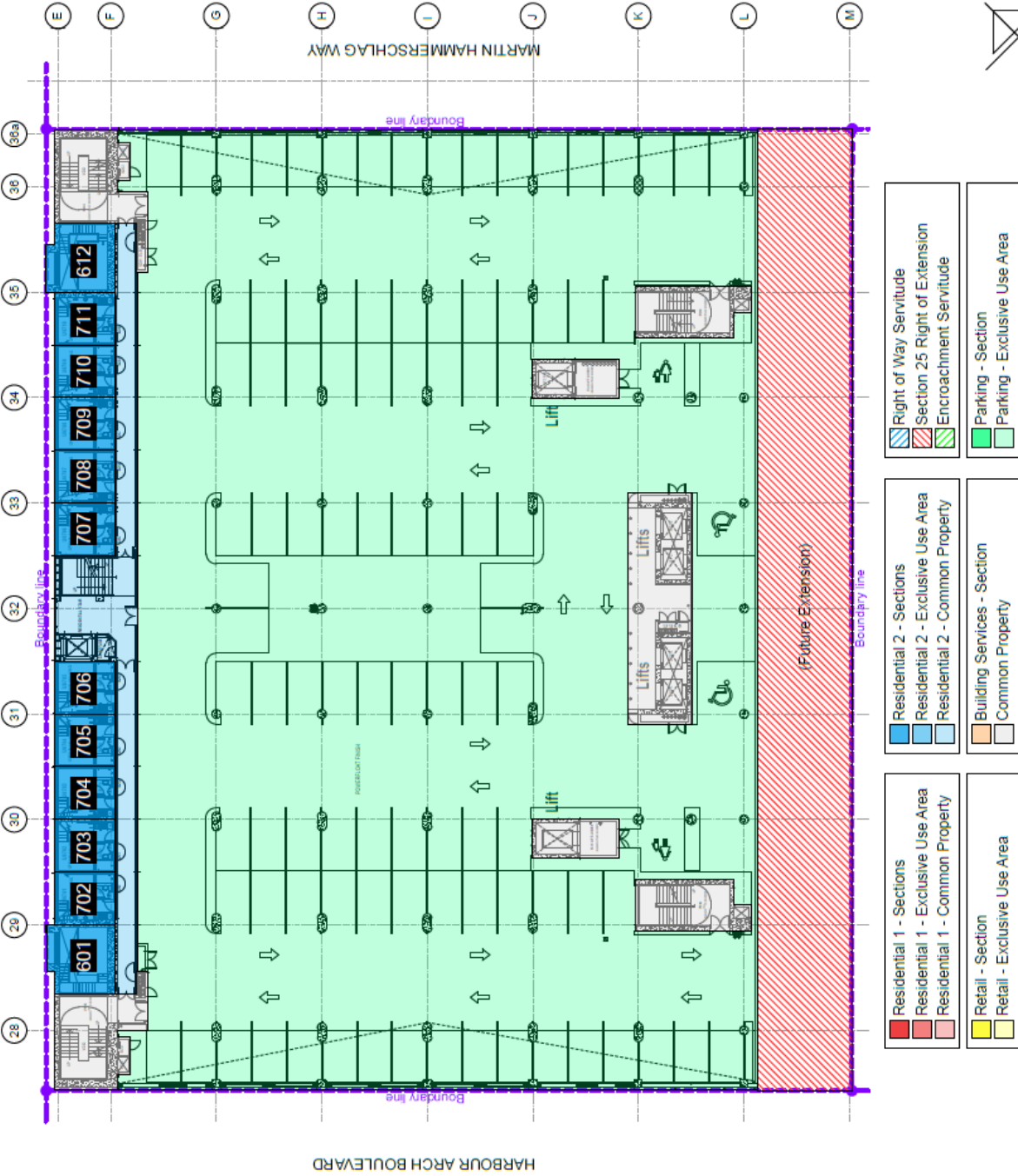
Parking Level 6

**Annexure B - Scheme Floor Layout**

|                                    |                               |
|------------------------------------|-------------------------------|
| Residential 1 - Sections           | Right of Way Servitude        |
| Residential 1 - Exclusive Use Area | Section 25 Right of Extension |
| Residential 1 - Common Property    | Encroachment Servitude        |
| Retail - Section                   | Parking - Section             |
| Retail - Exclusive Use Area        | Parking - Exclusive Use Area  |

|                                    |                               |
|------------------------------------|-------------------------------|
| Residential 2 - Sections           | Right of Way Servitude        |
| Residential 2 - Exclusive Use Area | Section 25 Right of Extension |
| Residential 2 - Common Property    | Encroachment Servitude        |
| Building Services - Section        | Parking - Section             |
| Common Property                    | Parking - Exclusive Use Area  |



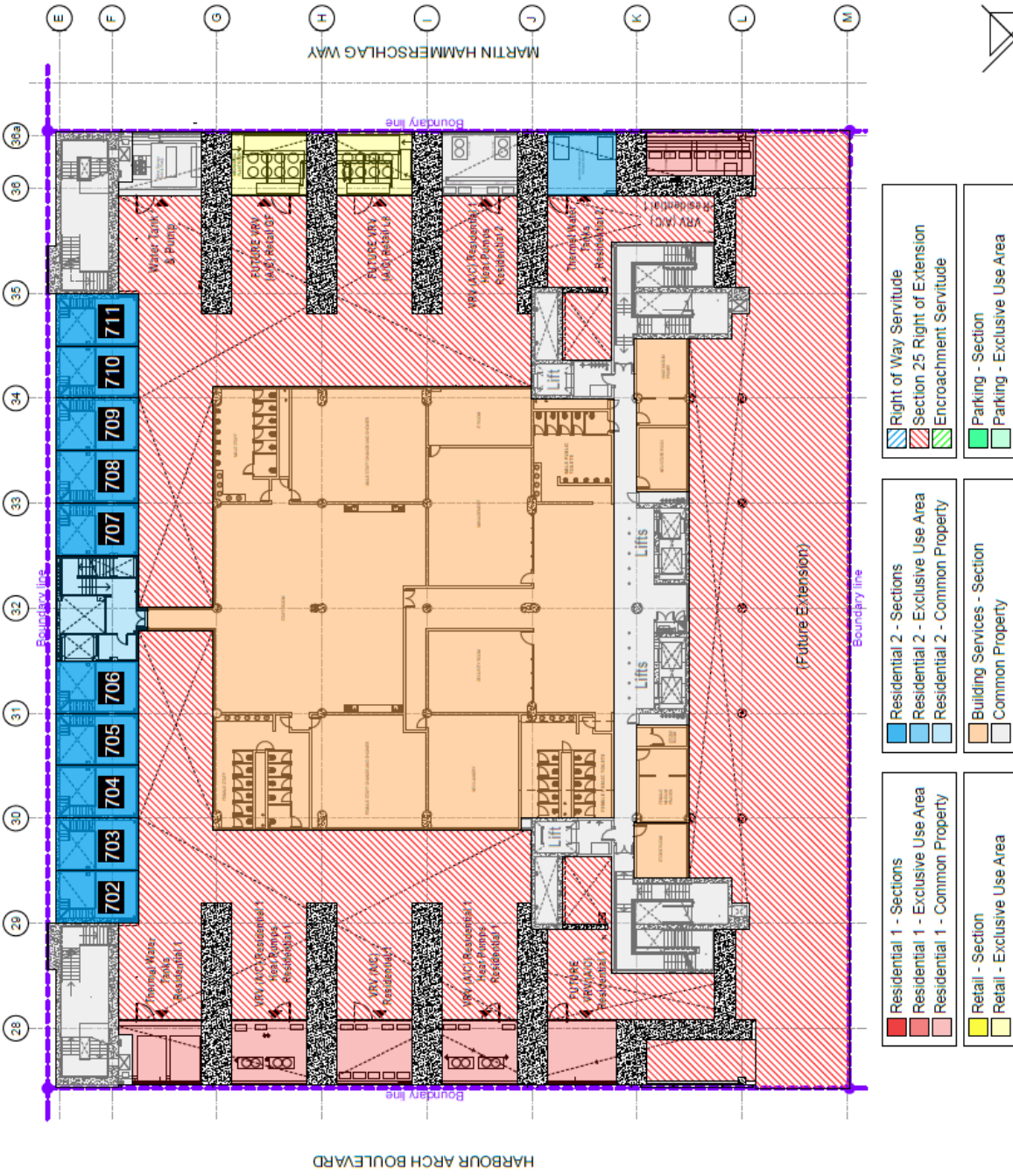
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Parking Level 7

**Annexure B - Scheme Floor Layout**

|  |                               |  |                                    |  |                                    |
|--|-------------------------------|--|------------------------------------|--|------------------------------------|
|  | Right of Way Servitude        |  | Residential 2 - Sections           |  | Residential 1 - Sections           |
|  | Section 25 Right of Extension |  | Residential 2 - Exclusive Use Area |  | Residential 1 - Exclusive Use Area |
|  | Encroachment Servitude        |  | Residential 2 - Common Property    |  | Residential 1 - Common Property    |
|  | Parking - Section             |  | Building Services - Section        |  | Retail - Section                   |
|  | Parking - Exclusive Use Area  |  | Common Property                    |  | Retail - Exclusive Use Area        |





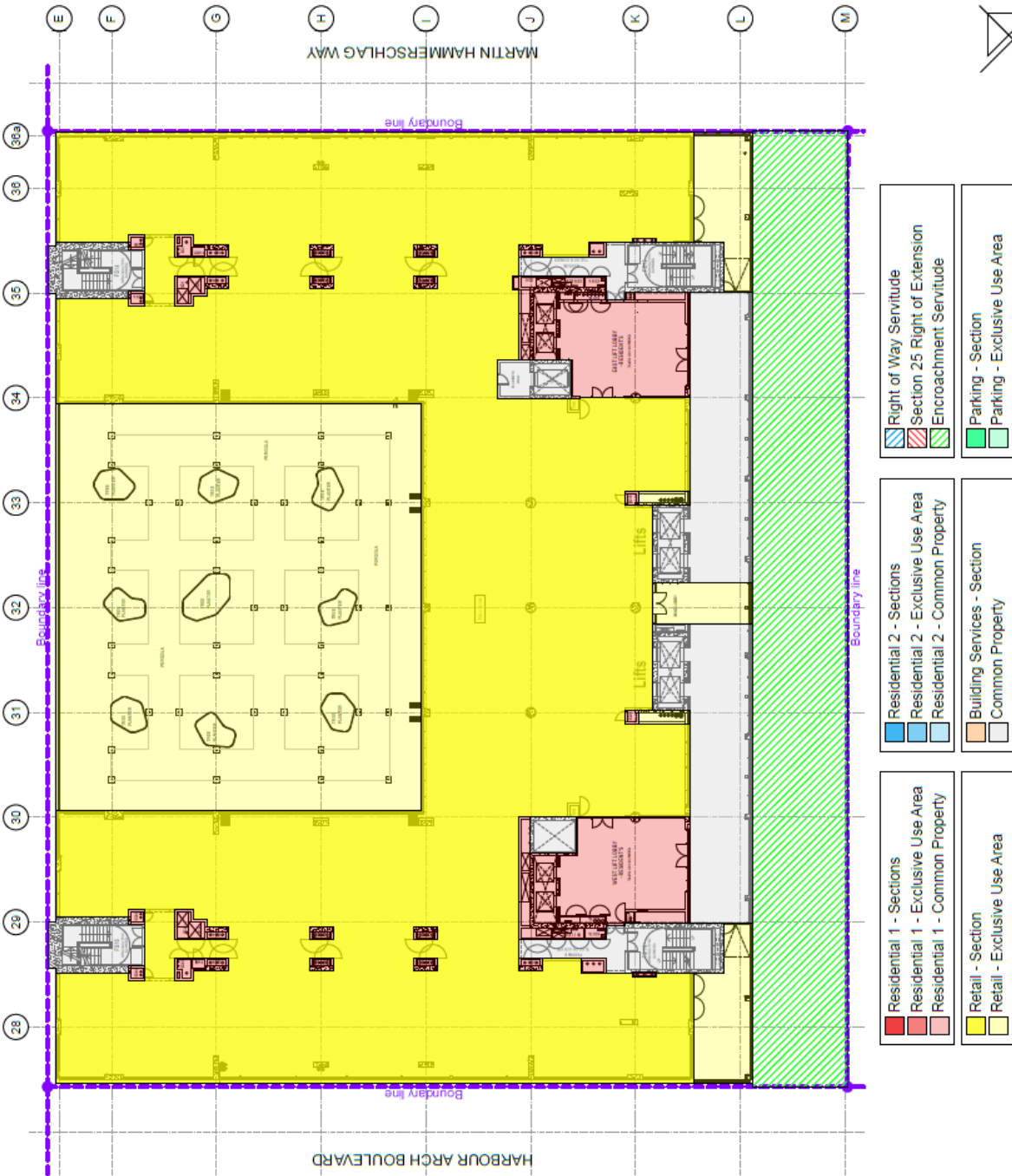
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Parking Level 7a

**Annexure B - Scheme Floor Layout**

- |  |                                    |                             |
|--|------------------------------------|-----------------------------|
| Right of Way Servitude                               | Residential 2 - Sections           | Retail - Section            |
| Section 25 Right of Extension Encroachment Servitude | Residential 2 - Exclusive Use Area | Retail - Exclusive Use Area |
| Parking - Section                                    | Residential 2 - Common Property    |                             |
| Parking - Exclusive Use Area                         | Building Services - Section        |                             |
|  | Common Property                    |                             |

Date: Thursday, March 02, 2023



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Level 8

**Annexure B - Scheme Floor Layout**

- |                                    |                                    |                               |
|------------------------------------|------------------------------------|-------------------------------|
| Residential 1 - Sections           | Residential 2 - Sections           | Right of Way Servitude        |
| Residential 1 - Exclusive Use Area | Residential 2 - Exclusive Use Area | Section 25 Right of Extension |
| Residential 1 - Common Property    | Residential 2 - Common Property    | Encroachment Servitude        |
| Retail - Section                   | Building Services - Section        | Parking - Section             |
| Retail - Exclusive Use Area        | Common Property                    | Parking - Exclusive Use Area  |

Date : Thursday, March 02, 2023



Date : Thursday, March 02, 2023

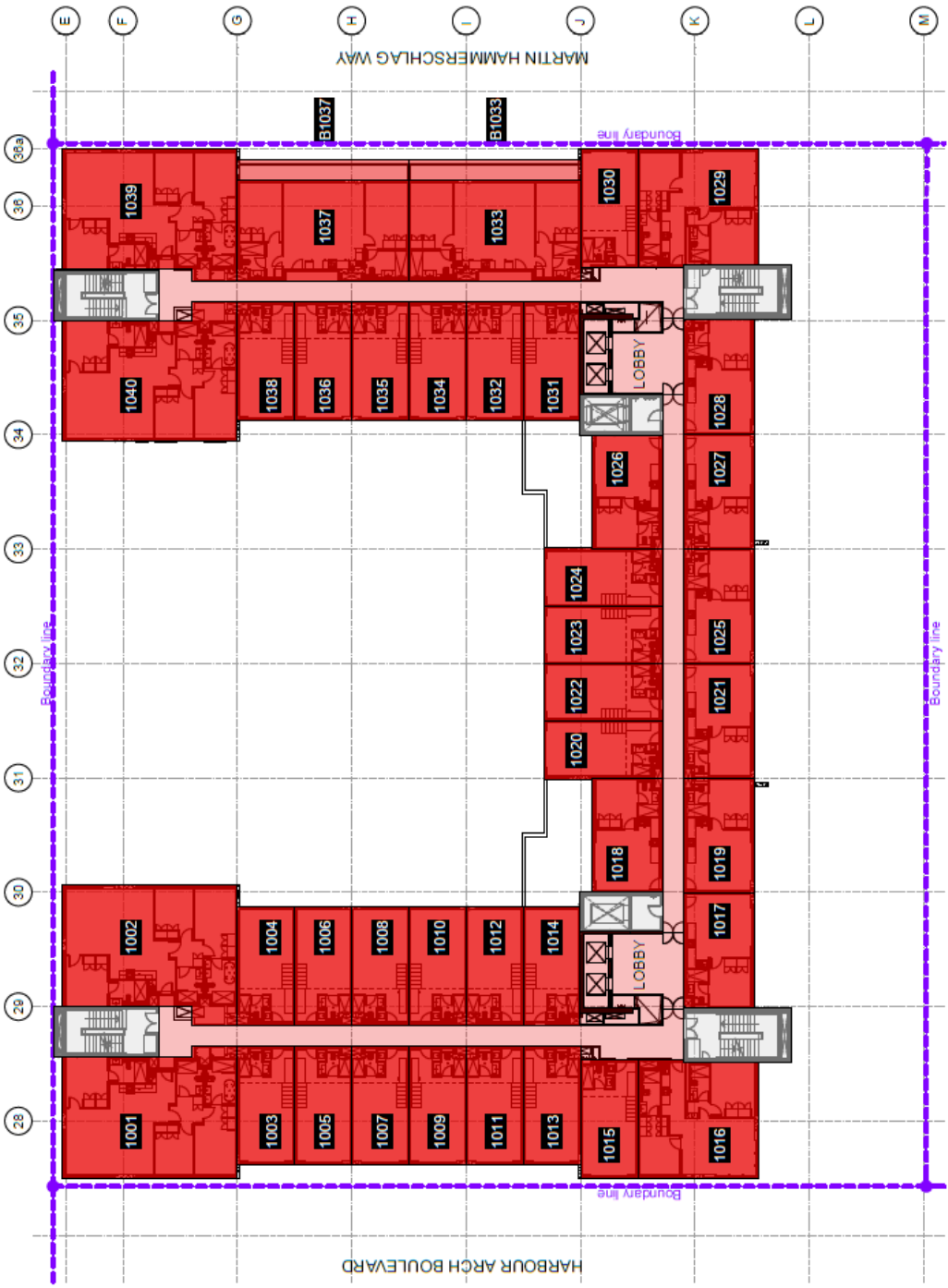
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|------------------------------------|------------------------------------|-------------------------------|
| Residential 1 - Sections           | Residential 2 - Sections           | Right of Way Servitude        |
| Residential 1 - Exclusive Use Area | Residential 2 - Exclusive Use Area | Section 25 Right of Extension |
| Residential 1 - Common Property    | Residential 2 - Common Property    | Encroachment Servitude        |
| Retail - Section                   | Building Services - Section        | Parking - Section             |
| Retail - Exclusive Use Area        | Common Property                    | Parking - Exclusive Use Area  |

SCALE 1:300

Level 9

### Annexure B - Scheme Floor Layout





Date : Thursday, March 02, 2023

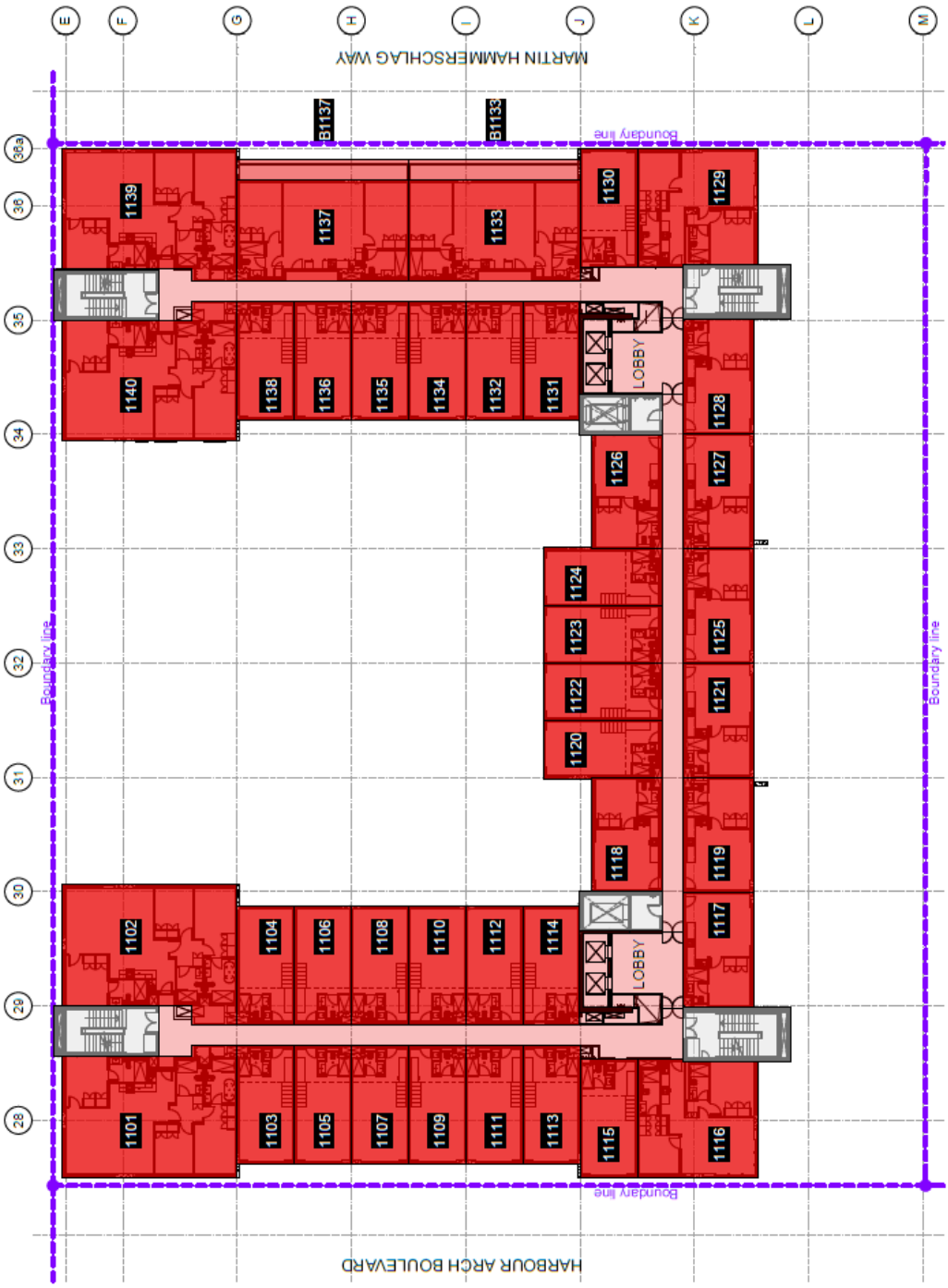
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|--|---|--|
| <ul style="list-style-type: none"> <li>Residential 1 - Sections</li> <li>Residential 1 - Exclusive Use Area</li> <li>Residential 1 - Common Property</li> <li>Retail - Section</li> <li>Retail - Exclusive Use Area</li> </ul> | <ul style="list-style-type: none"> <li>Residential 2 - Sections</li> <li>Residential 2 - Exclusive Use Area</li> <li>Residential 2 - Common Property</li> <li>Building Services - Section</li> <li>Common Property</li> </ul> | <ul style="list-style-type: none"> <li>Right of Way Servitude</li> <li>Section 25 Right of Extension</li> <li>Encroachment Servitude</li> <li>Parking - Section</li> <li>Parking - Exclusive Use Area</li> </ul> |
|--|---|--|

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Level 10

**Annexure B - Scheme Floor Layout**





Date : Thursday, March 02, 2023

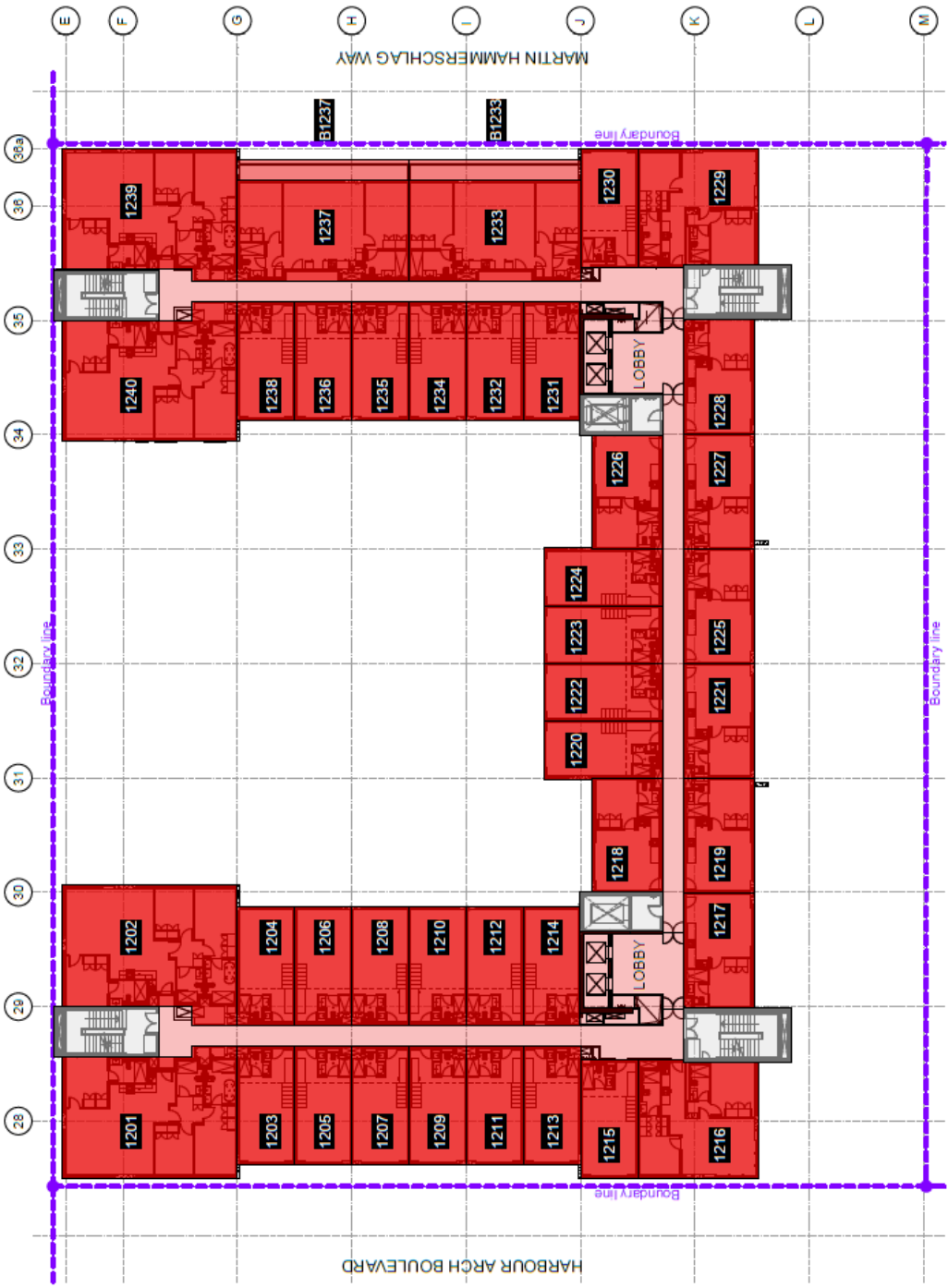
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|--|------------------------------------|--|-------------------------------|
|  | Residential 1 - Sections           |  | Right of Way Servitude        |
|  | Residential 1 - Exclusive Use Area |  | Section 25 Right of Extension |
|  | Residential 1 - Common Property    |  | Encroachment Servitude        |
|  | Retail - Section                   |  | Parking - Section             |
|  | Retail - Exclusive Use Area        |  | Parking - Exclusive Use Area  |



SCALE 1:300

Level 11

**Annexure B - Scheme Floor Layout**



Date : Thursday, March 02, 2023

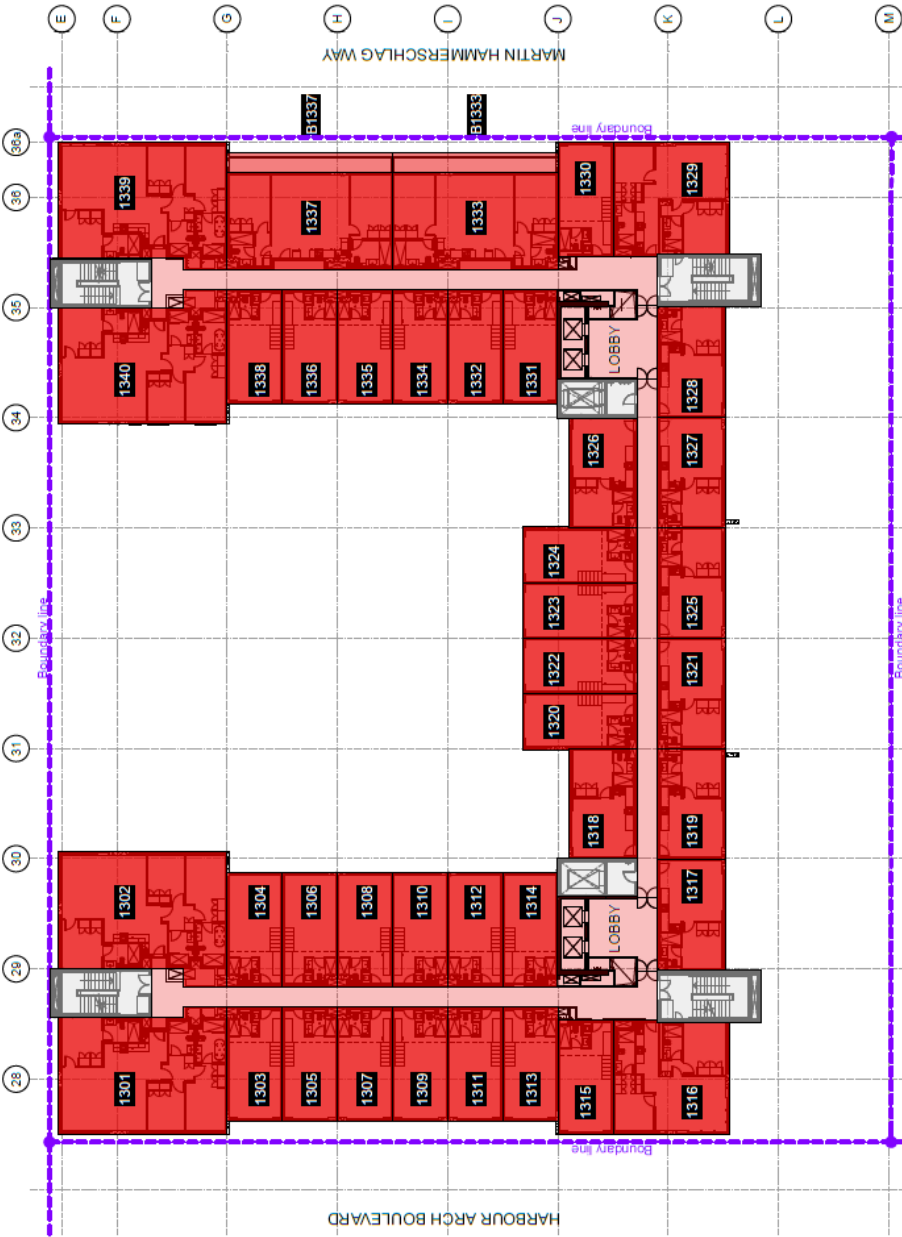
|  |   |  |
|--|---|--|
| <ul style="list-style-type: none"> <li>Residential 1 - Sections</li> <li>Residential 1 - Exclusive Use Area</li> <li>Residential 1 - Common Property</li> <li>Retail - Section</li> <li>Retail - Exclusive Use Area</li> </ul> | <ul style="list-style-type: none"> <li>Residential 2 - Sections</li> <li>Residential 2 - Exclusive Use Area</li> <li>Residential 2 - Common Property</li> <li>Building Services - Section</li> <li>Common Property</li> </ul> | <ul style="list-style-type: none"> <li>Right of Way Servitude</li> <li>Section 25 Right of Extension</li> <li>Encroachment Servitude</li> <li>Parking - Section</li> <li>Parking - Exclusive Use Area</li> </ul> |
|--|---|--|

SCALE 1:300

Level 12

**Annexure B - Scheme Floor Layout**





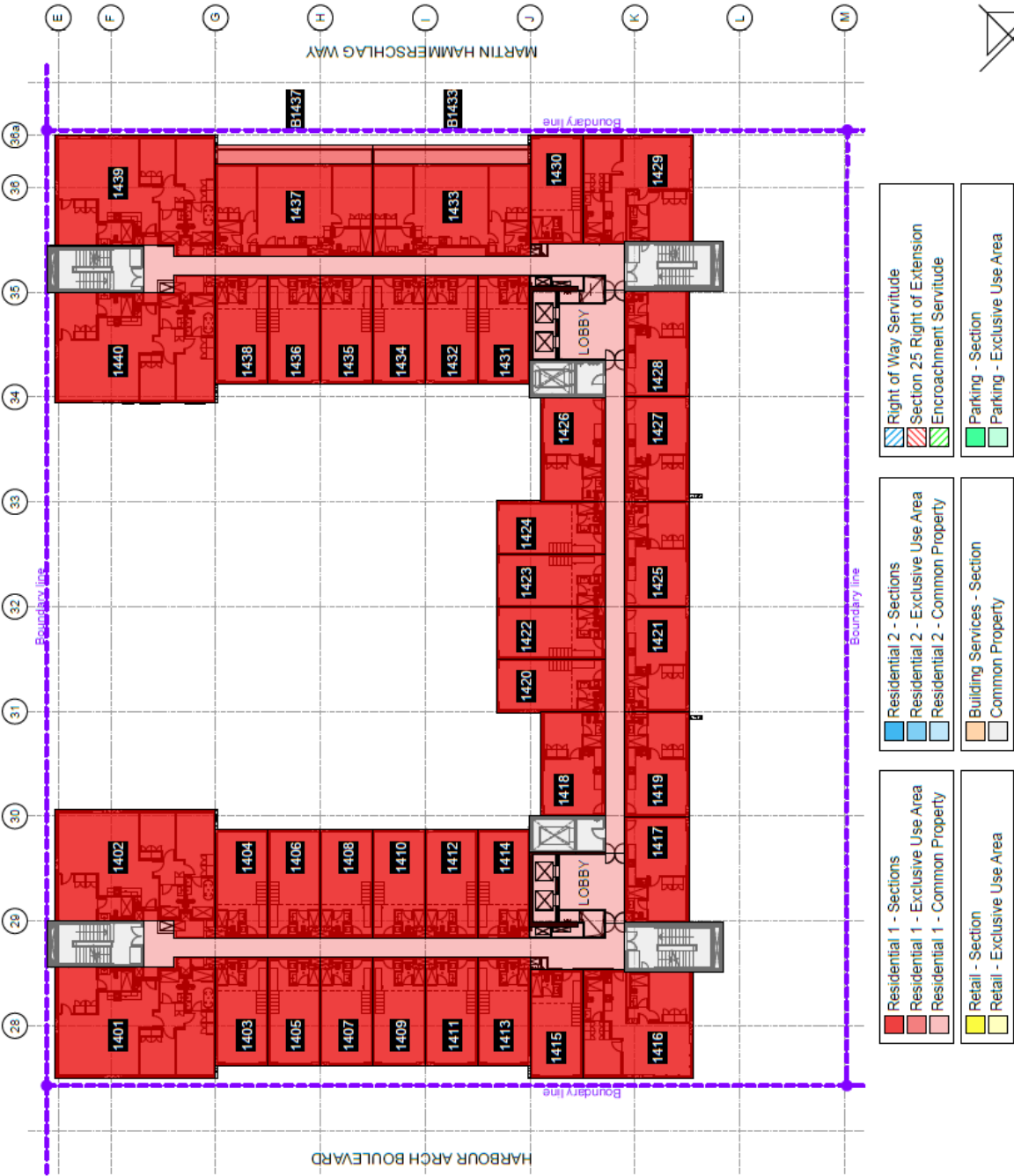
|   |   |   |
|---|---|---|
| <ul style="list-style-type: none"> <li>Residential 1 - Sections</li> <li>Residential 1 - Exclusive Use Area</li> <li>Residential 1 - Common Property</li> </ul> | <ul style="list-style-type: none"> <li>Residential 2 - Sections</li> <li>Residential 2 - Exclusive Use Area</li> <li>Residential 2 - Common Property</li> </ul> | <ul style="list-style-type: none"> <li>Right of Way Servitude</li> <li>Section 25 Right of Extension</li> <li>Encroachment Servitude</li> </ul> |
| <ul style="list-style-type: none"> <li>Retail - Section</li> <li>Retail - Exclusive Use Area</li> </ul>   | <ul style="list-style-type: none"> <li>Building Services - Section</li> <li>Common Property</li> </ul>  | <ul style="list-style-type: none"> <li>Parking - Section</li> <li>Parking - Exclusive Use Area</li> </ul>                                       |



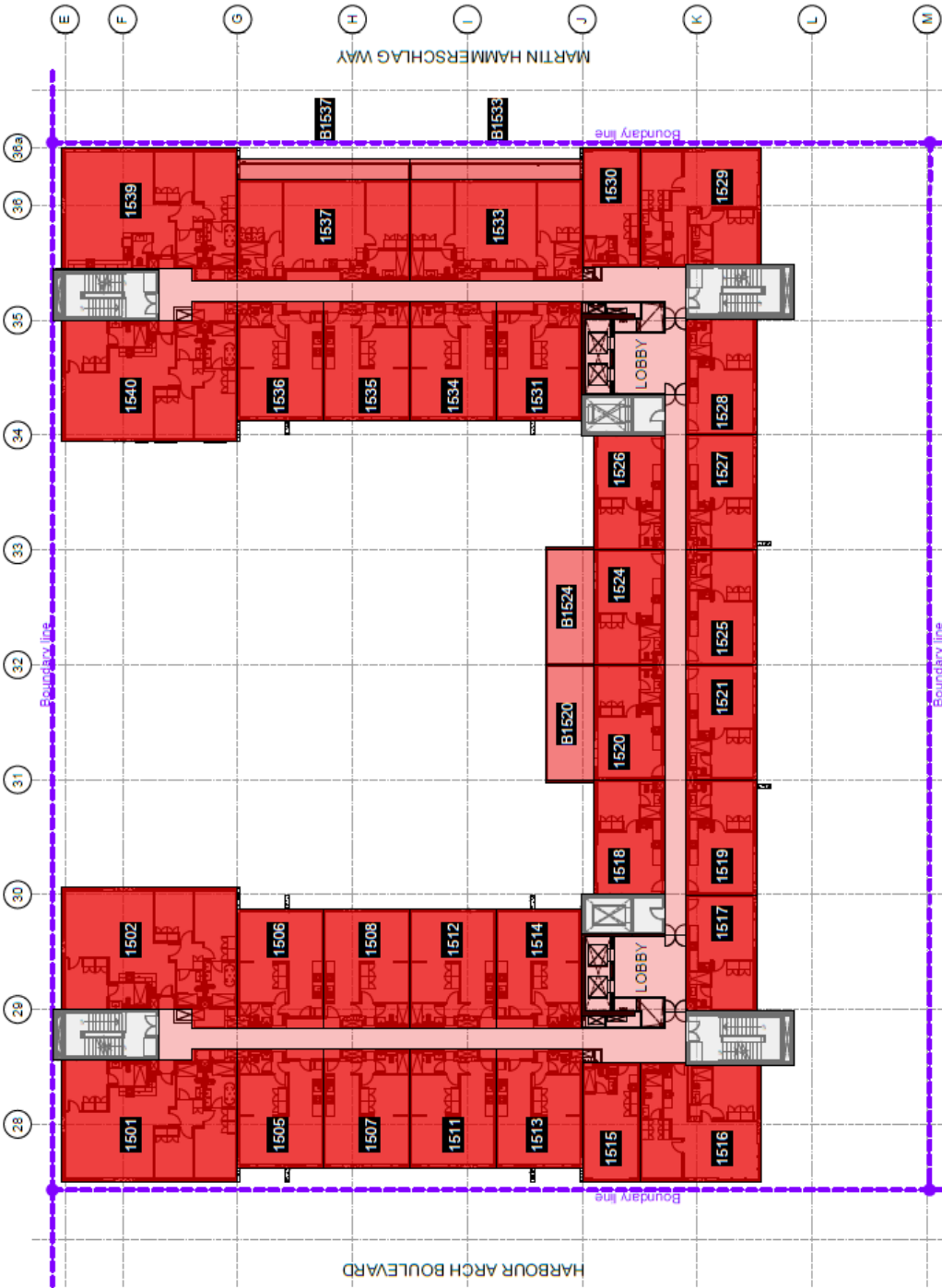
SCALE 1:300

Level 13

### Annexure B - Scheme Floor Layout



Date: Thursday, March 02, 2023



|                               |                                    |                                 |                              |
|-------------------------------|------------------------------------|---------------------------------|------------------------------|
| Residential 1 - Sections      | Residential 1 - Exclusive Use Area | Residential 1 - Common Property | Retail - Section             |
| Residential 2 - Sections      | Residential 2 - Exclusive Use Area | Residential 2 - Common Property | Retail - Exclusive Use Area  |
| Right of Way Servitude        | Building Services - Section        | Common Property                 | Parking - Section            |
| Section 25 Right of Extension | Common Property                    | Common Property                 | Parking - Exclusive Use Area |
| Encroachment Servitude        |                                    |                                 |                              |

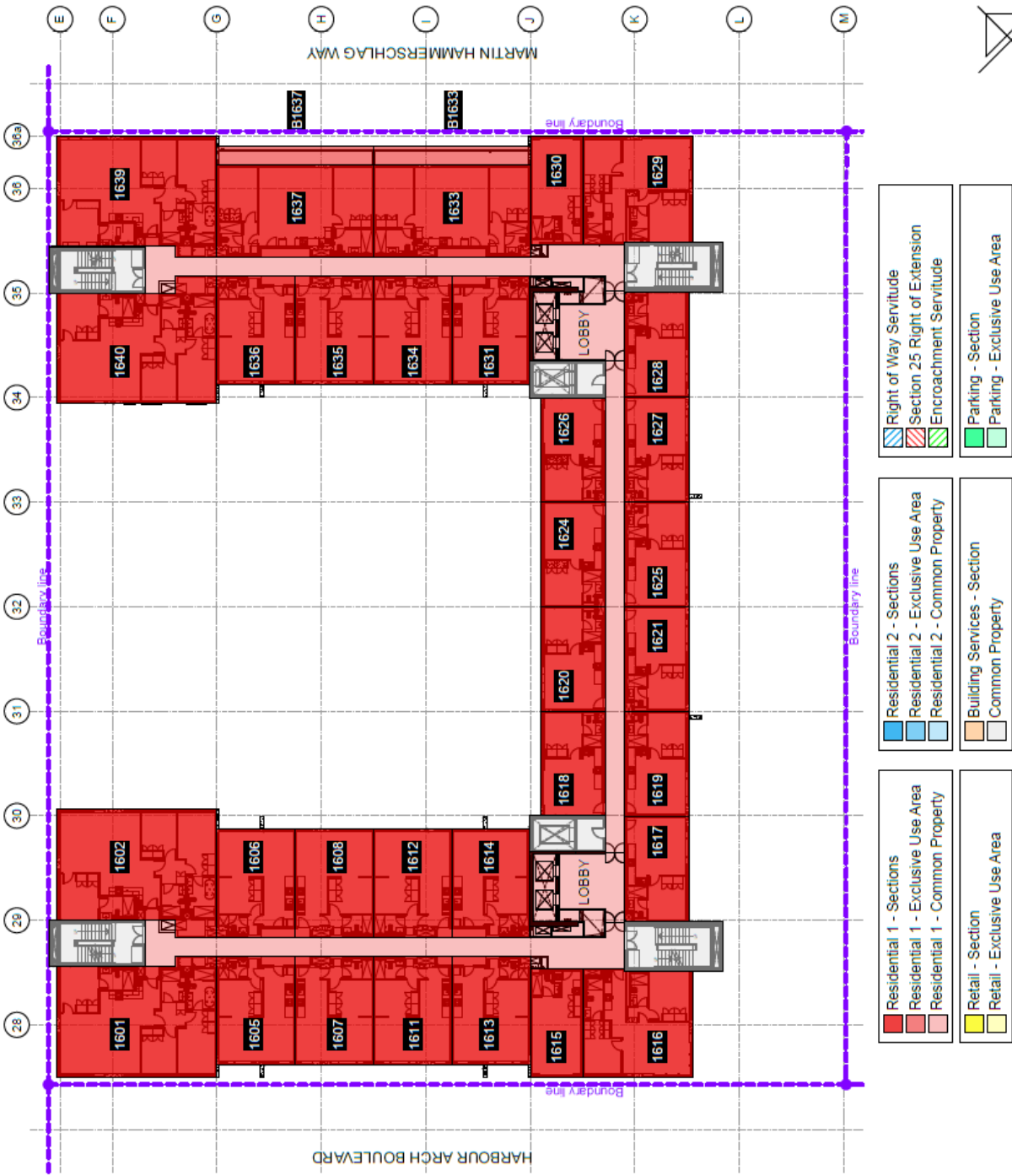
## Annexure B - Scheme Floor Layout

Level 15

SCALE 1:300







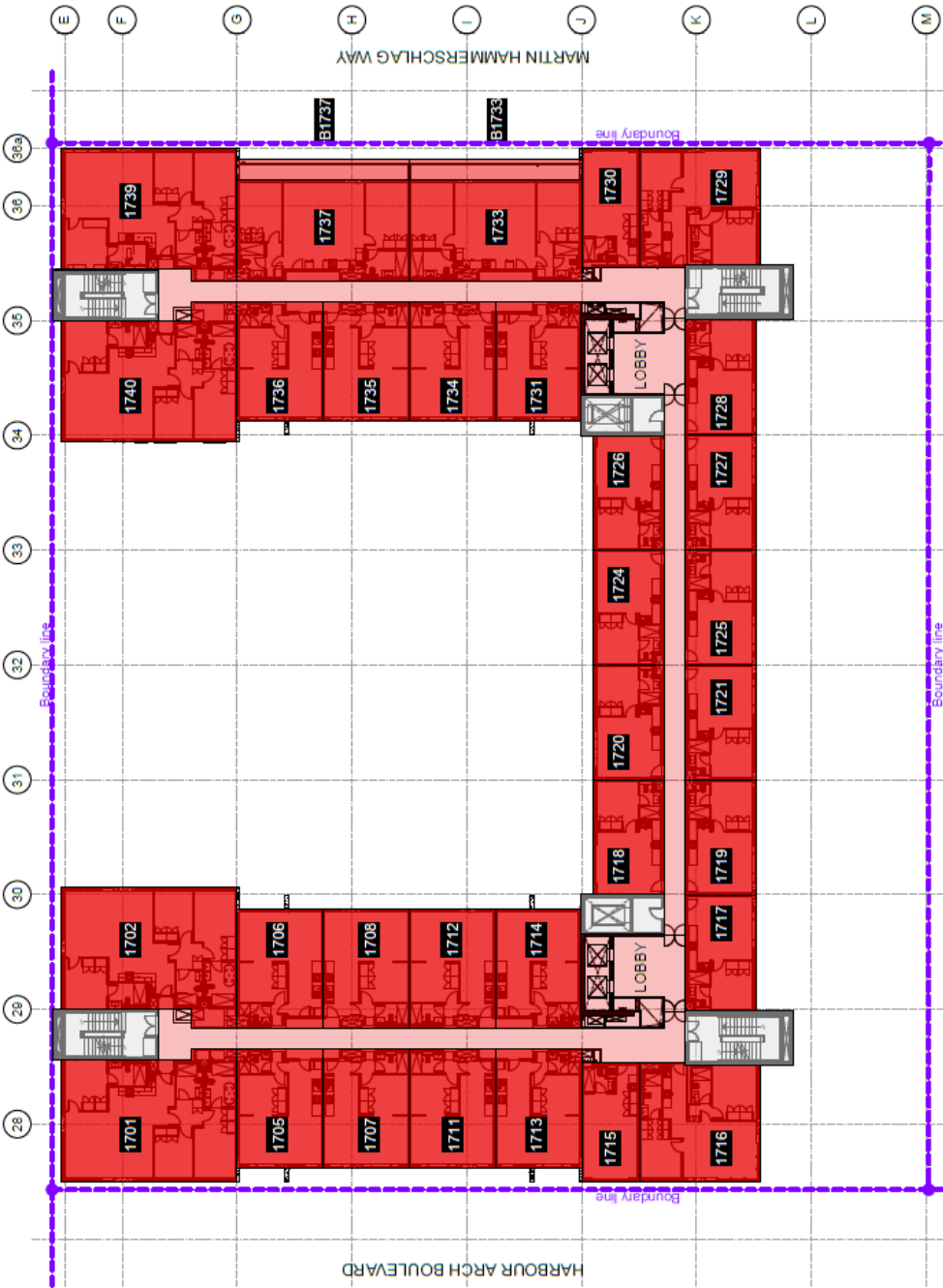
SCALE 1:300

Level 16

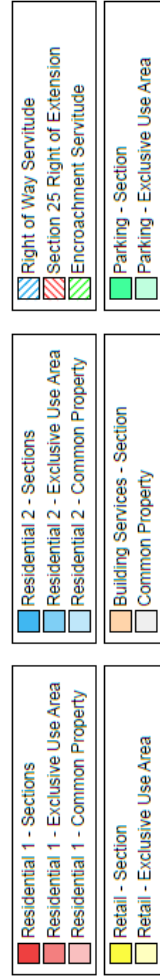
Annexure B - Scheme Floor Layout

Date - Thursday, March 02, 2023





Date : Thursday, March 02, 2023

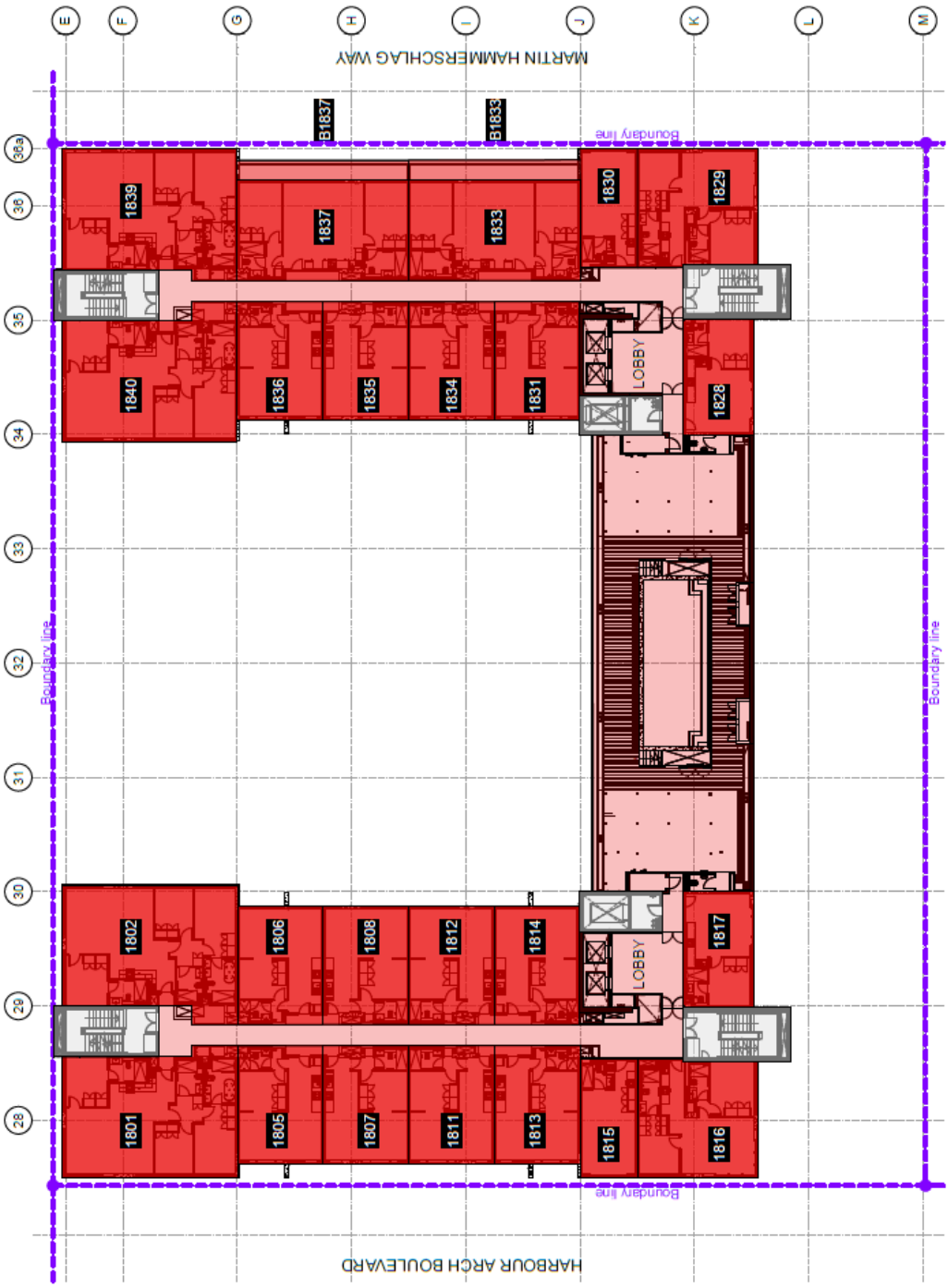


SCALE 1:300

Level 17

**Annexure B - Scheme Floor Layout**





- |                                    |                                    |                               |
|------------------------------------|------------------------------------|-------------------------------|
| Residential 1 - Sections           | Residential 2 - Sections           | Right of Way Servitude        |
| Residential 1 - Exclusive Use Area | Residential 2 - Exclusive Use Area | Section 25 Right of Extension |
| Residential 1 - Common Property    | Residential 2 - Common Property    | Encroachment Servitude        |
| Retail - Section                   | Building Services - Section        | Parking - Section             |
| Retail - Exclusive Use Area        | Common Property                    | Parking - Exclusive Use Area  |

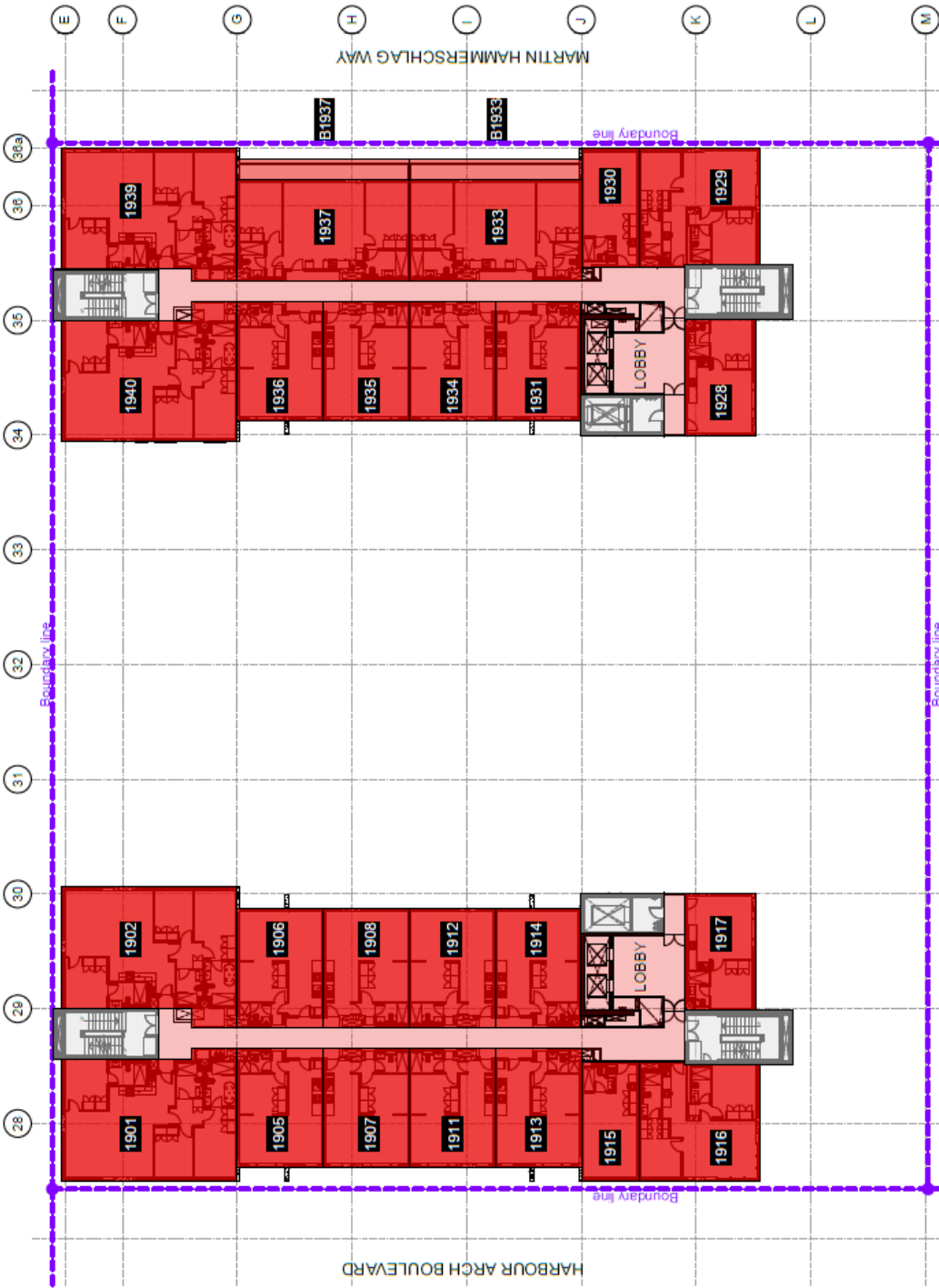


SCALE 1:300

Level 18

**Annexure B - Scheme Floor Layout**

Date : Thursday, March 02, 2023



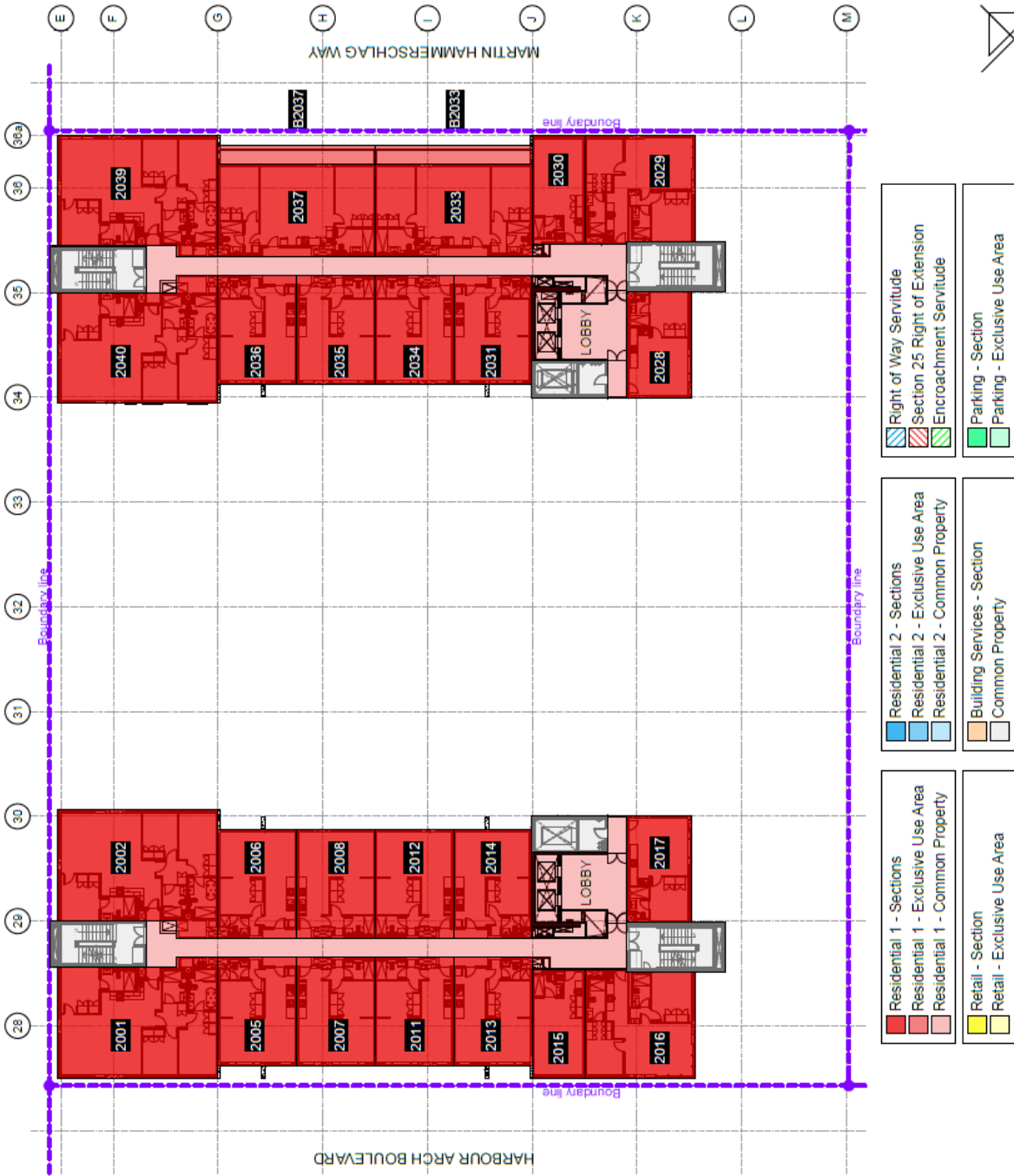
|  |                                    |  |                                    |  |                               |
|--|------------------------------------|--|------------------------------------|--|-------------------------------|
|  | Residential 1 - Sections           |  | Residential 2 - Sections           |  | Right of Way Servitude        |
|  | Residential 1 - Exclusive Use Area |  | Residential 2 - Exclusive Use Area |  | Section 25 Right of Extension |
|  | Residential 1 - Common Property    |  | Residential 2 - Common Property    |  | Encroachment Servitude        |
|  | Retail - Section                   |  | Building Services - Section        |  | Parking - Section             |
|  | Retail - Exclusive Use Area        |  | Common Property                    |  | Parking - Exclusive Use Area  |



SCALE 1:300

Level 19

## Annexure B - Scheme Floor Layout

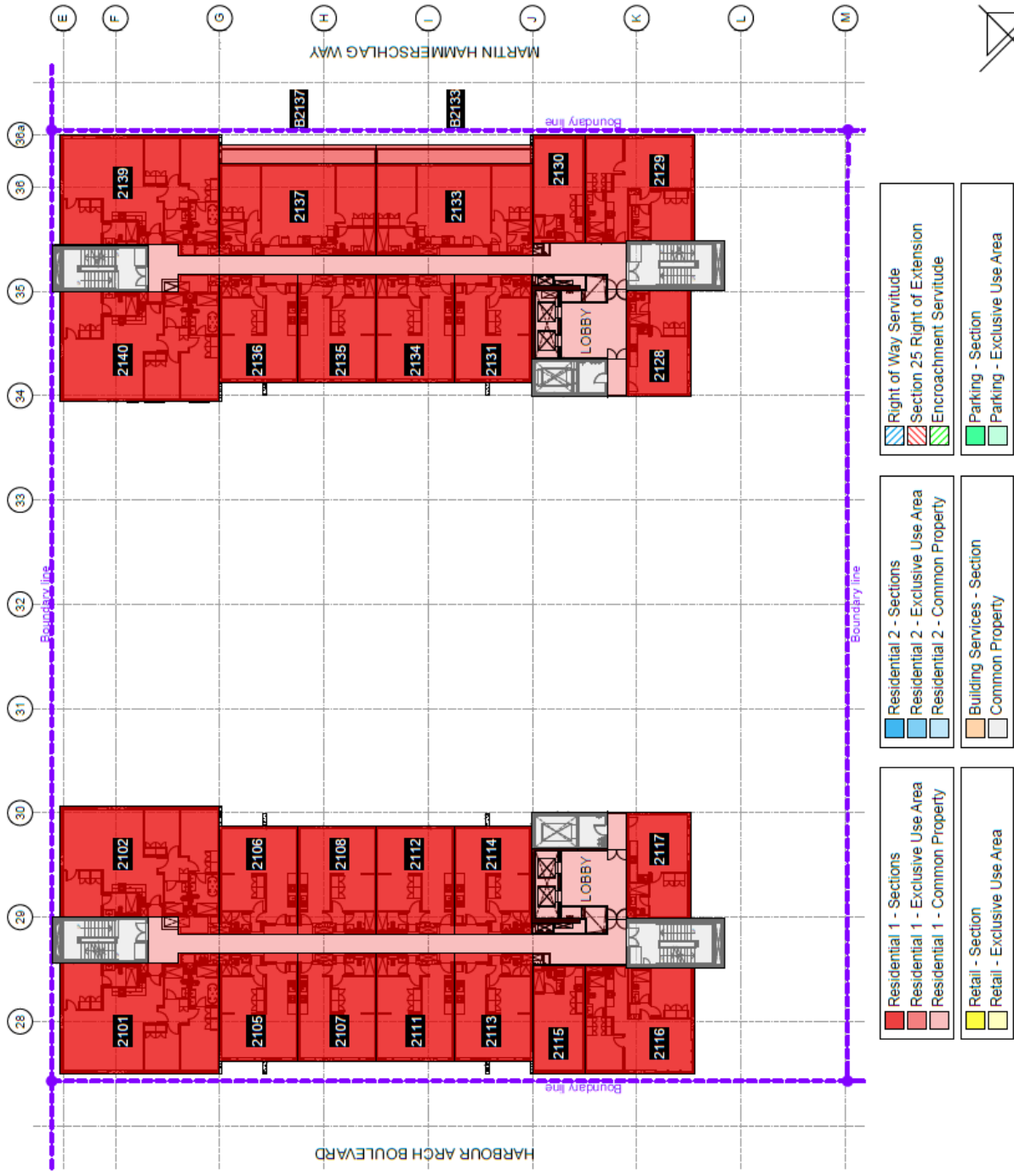


SCALE 1:300

Level 20

**Annexure B - Scheme Floor Layout**

Date: Thursday, March 02, 2023

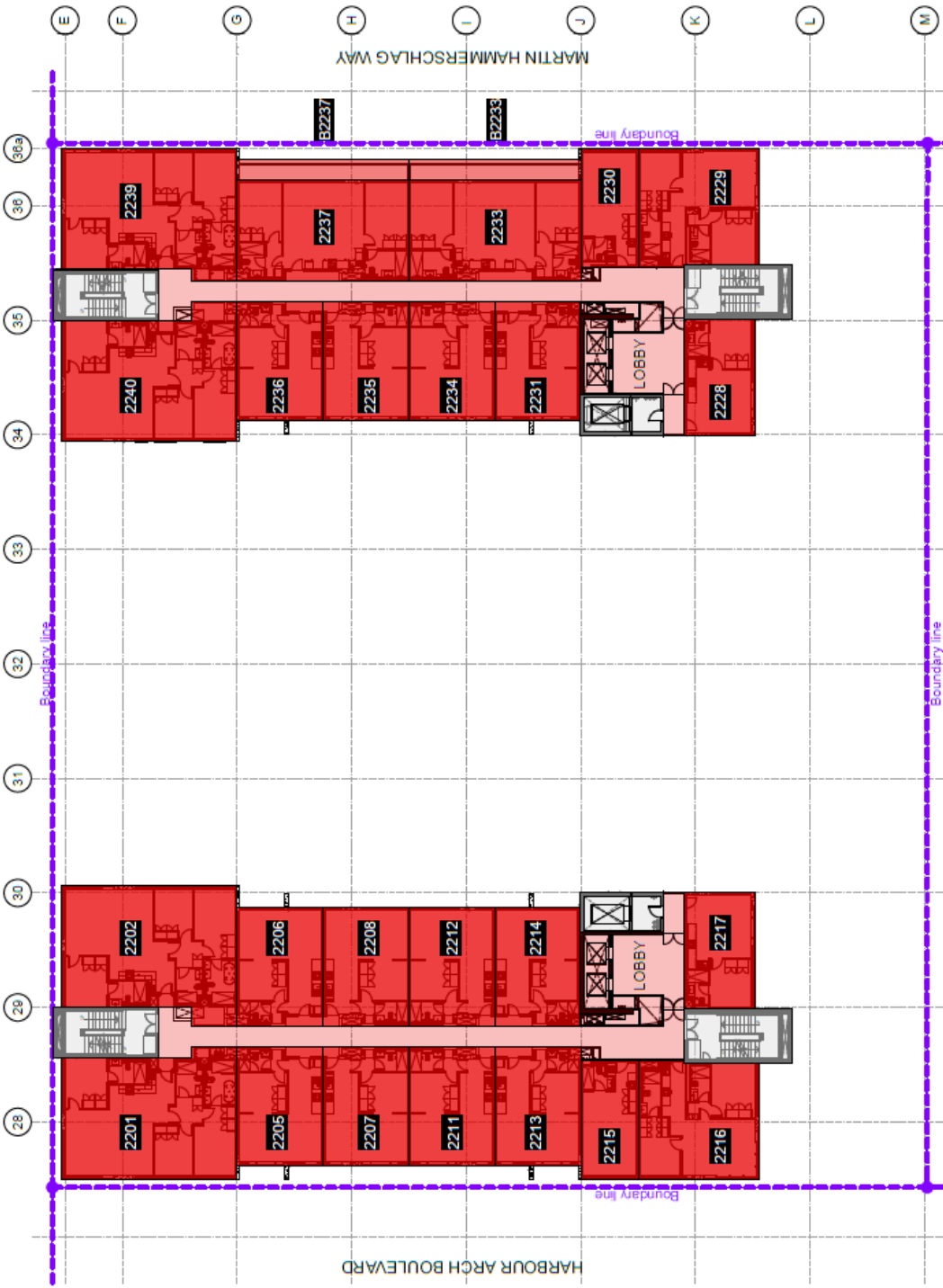


SCALE 1:300

Level 21

### Annexure B - Scheme Floor Layout

- |  |                                    |  |                                    |  |                              |
|--|------------------------------------|--|------------------------------------|--|------------------------------|
|  | Residential 1 - Sections           |  | Residential 2 - Sections           |  | Parking - Section            |
|  | Residential 1 - Exclusive Use Area |  | Residential 2 - Exclusive Use Area |  | Parking - Exclusive Use Area |
|  | Residential 1 - Common Property    |  | Residential 2 - Common Property    |  |                              |
|  | Retail - Section                   |  | Building Services - Section        |  |                              |
|  | Retail - Exclusive Use Area        |  | Common Property                    |  |                              |
|  | Right of Way Servitude             |  | Section 25 Right of Extension      |  |                              |
|  | Encroachment Servitude             |  |                                    |  |                              |



|  |                                    |
|--|------------------------------------|
|  | Residential 1 - Sections           |
|  | Residential 1 - Exclusive Use Area |
|  | Residential 1 - Common Property    |
|  | Retail - Section                   |
|  | Retail - Exclusive Use Area        |

|  |                                    |
|--|------------------------------------|
|  | Residential 2 - Sections           |
|  | Residential 2 - Exclusive Use Area |
|  | Residential 2 - Common Property    |
|  | Building Services - Section        |
|  | Common Property                    |

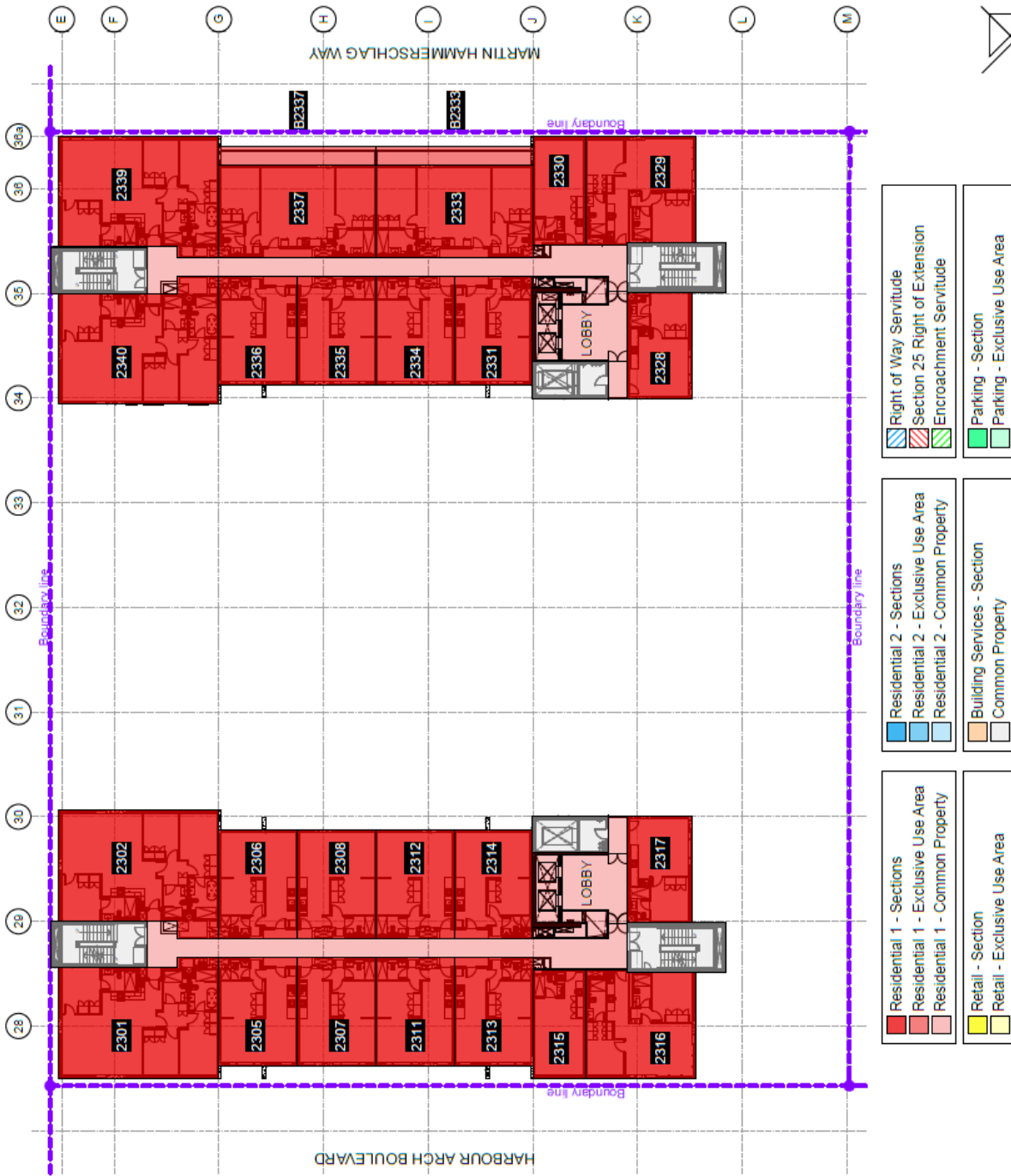
|  |                               |
|--|-------------------------------|
|  | Right of Way Servitude        |
|  | Section 25 Right of Extension |
|  | Encroachment Servitude        |
|  | Parking - Section             |
|  | Parking - Exclusive Use Area  |



SCALE 1:300

Level 22

### Annexure B - Scheme Floor Layout



SCALE 1:300

Level 23

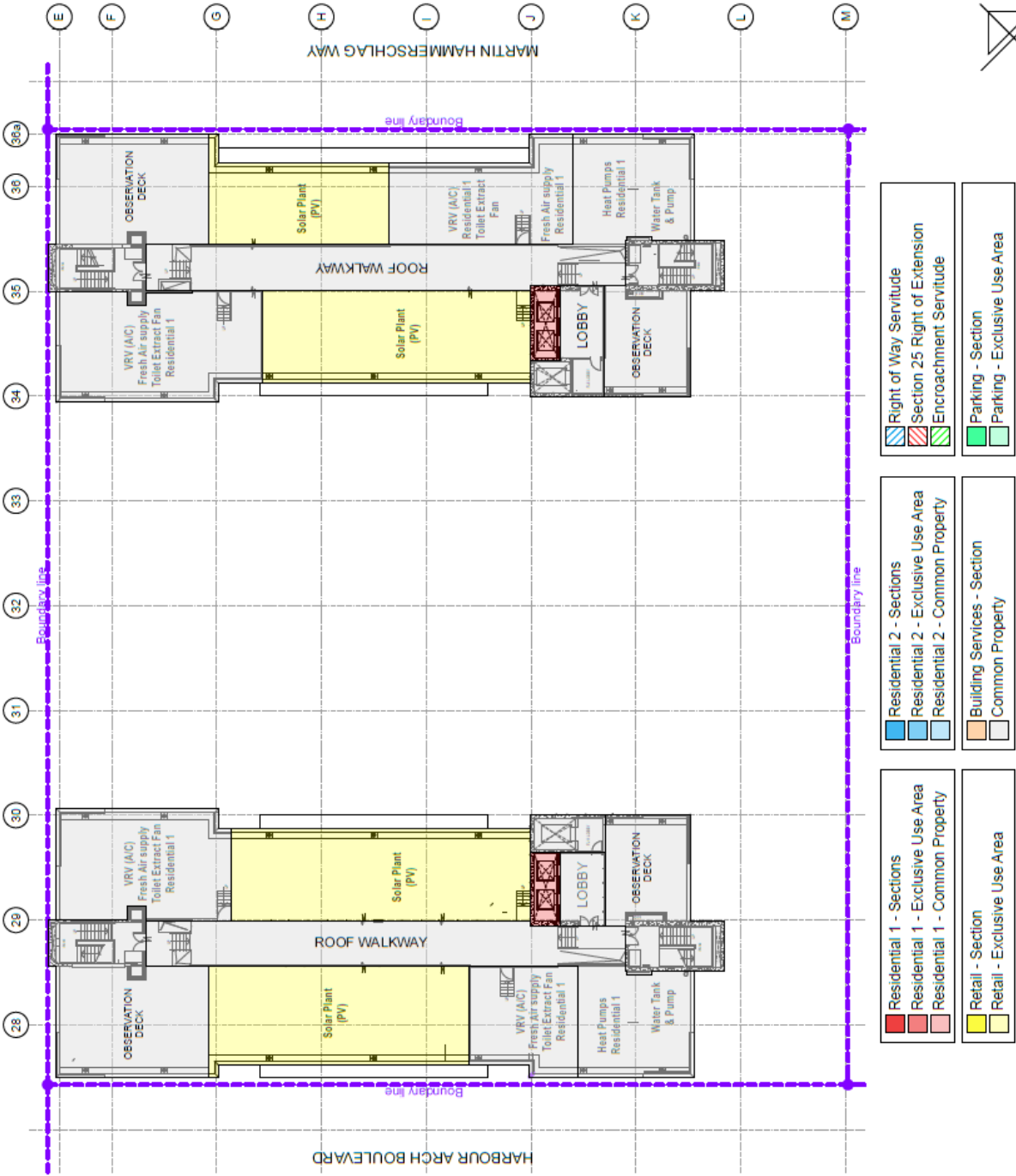
|  |                               |
|--|-------------------------------|
|  | Right of Way Servitude        |
|  | Section 25 Right of Extension |
|  | Encroachment Servitude        |
|  | Parking - Section             |
|  | Parking - Exclusive Use Area  |

|  |                                    |
|--|------------------------------------|
|  | Residential 2 - Sections           |
|  | Residential 2 - Exclusive Use Area |
|  | Residential 2 - Common Property    |
|  | Building Services - Section        |
|  | Common Property                    |

|  |                                    |
|--|------------------------------------|
|  | Residential 1 - Sections           |
|  | Residential 1 - Exclusive Use Area |
|  | Residential 1 - Common Property    |
|  | Retail - Section                   |
|  | Retail - Exclusive Use Area        |

## Annexure B - Scheme Floor Layout



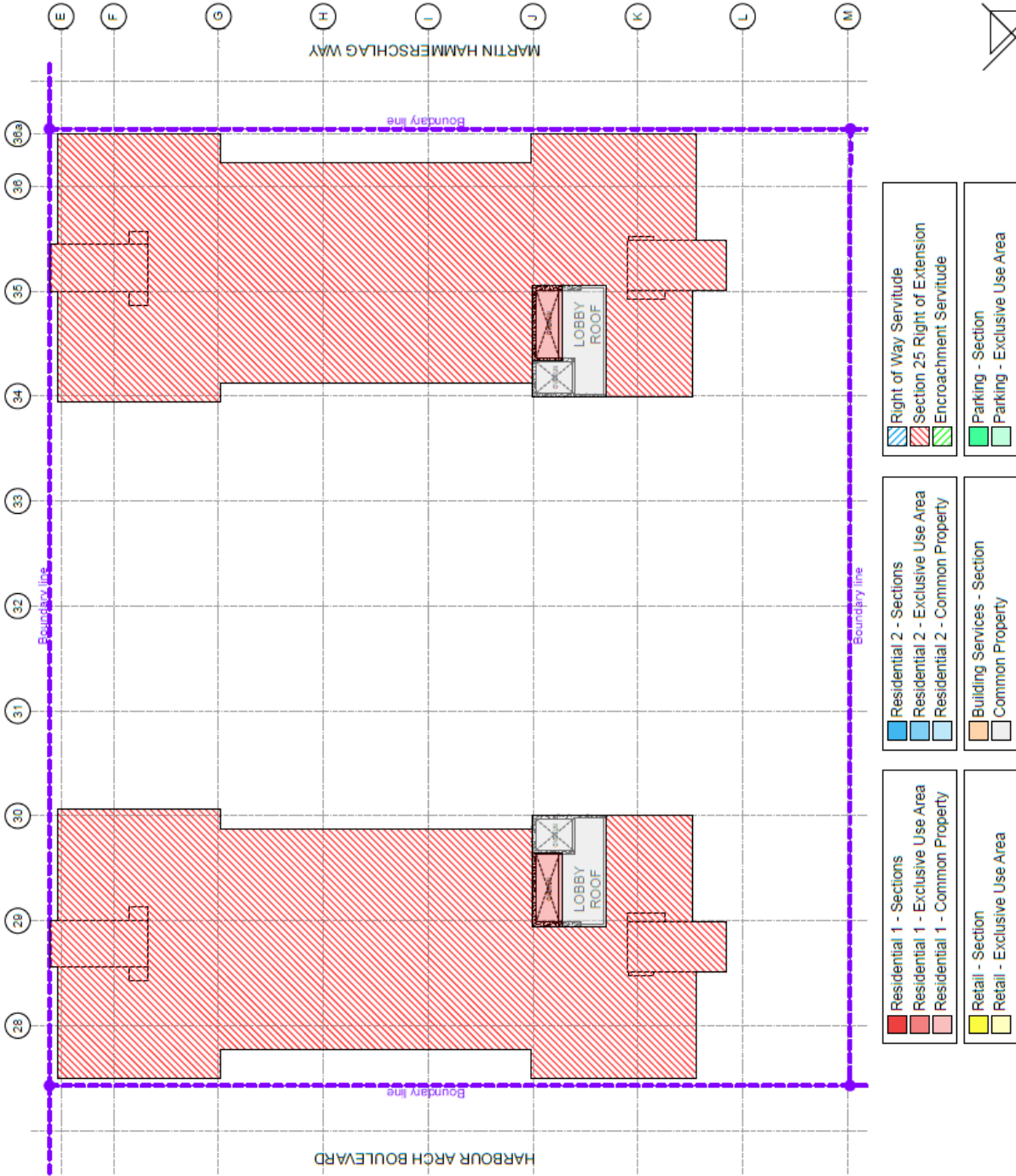


SCALE 1:300

Roof

**Annexure B - Scheme Floor Layout**

Date : Thursday, March 02, 2023

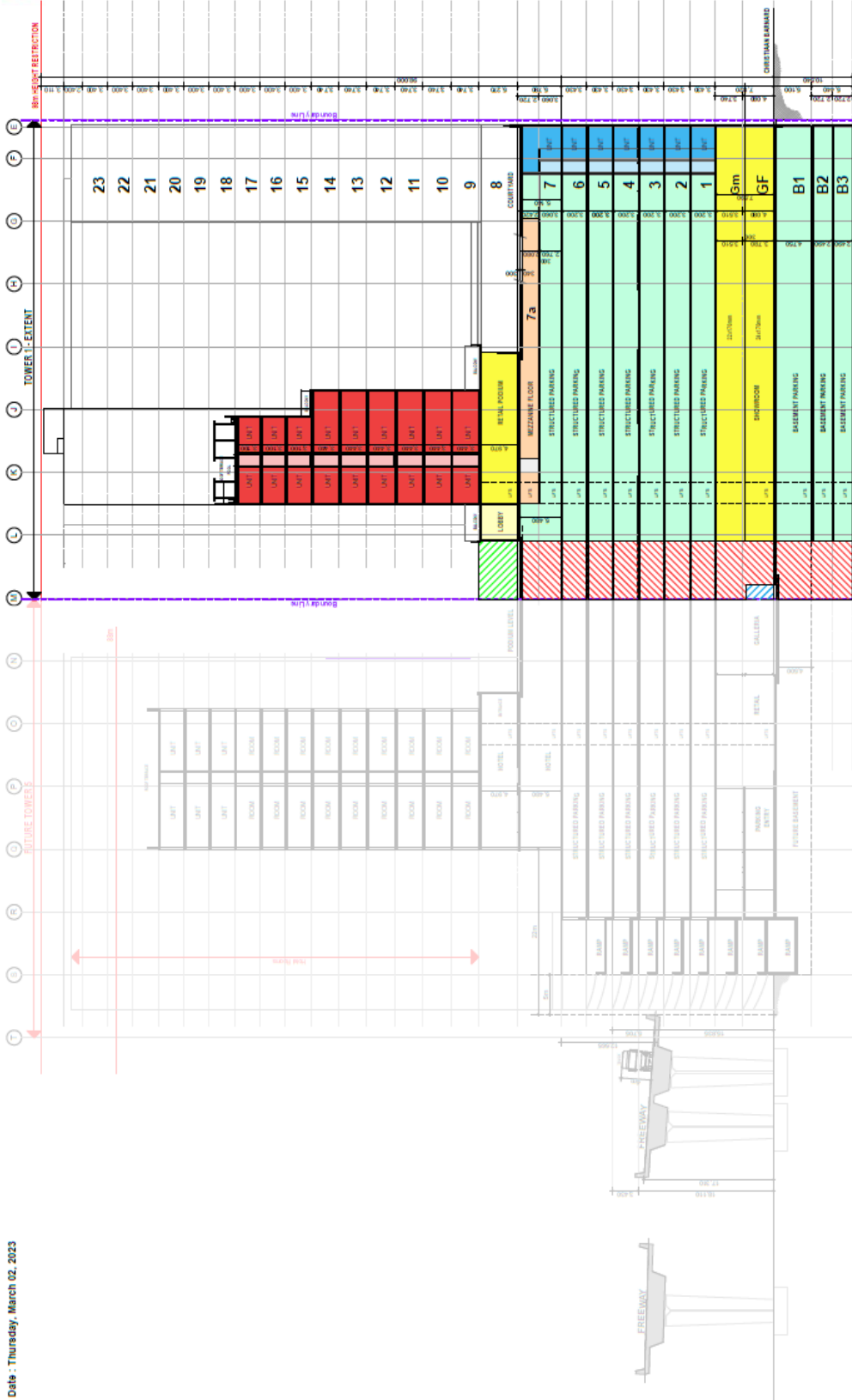


SCALE 1:300

- |  |                               |  |                                    |  |                              |
|--|-------------------------------|--|------------------------------------|--|------------------------------|
|  | Right of Way Servitude        |  | Residential 2 - Sections           |  | Encroachment Servitude       |
|  | Section 25 Right of Extension |  | Residential 2 - Exclusive Use Area |  | Parking - Section            |
|  |                               |  | Residential 2 - Common Property    |  | Parking - Exclusive Use Area |
|  |                               |  | Residential 1 - Common Property    |  |                              |
|  |                               |  | Residential 1 - Exclusive Use Area |  |                              |
|  |                               |  | Residential 1 - Sections           |  |                              |
|  |                               |  | Retail - Section                   |  |                              |
|  |                               |  | Retail - Exclusive Use Area        |  |                              |

Upper Roof

Annexure B - Scheme Floor Layout



- Residential 1 - Sections
- Residential 1 - Exclusive Use Area
- Residential 1 - Common Property
- Retail - Section
- Retail - Exclusive Use Area

- Residential 2 - Sections
- Residential 2 - Exclusive Use Area
- Residential 2 - Common Property
- Building Services - Section
- Common Property

- Right of Way Servitude
- Section 25 Right of Extension
- Encroachment Servitude
- Parking - Section
- Parking - Exclusive Use Area

### Annexure C - Scheme Cross Section

SCALE 1:500