



DEVELOPMENT MANAGEMENT SCHEME COMPLIANCE ADVISORY: 5 OF 2025

NOTARIAL TIE VS CONSOLIDATION

Purpose

- 1.1. The purpose of this advisory is to provide clarity on when a notarial tie can be used instead of a consolidation.
- 1.2. The Development Management Department has seen an increase in notarial ties being submitted to link various properties to form one big development / block of flats.
- 1.3. In terms of section 50(1) of the City of Cape Town Municipal Planning By-law, 2015, as amended (MPBL), a person may construct a building straddling a boundary if they either consolidate or take legal steps to the City Manager's satisfaction (i.e. notarial tie).

"50(1) A person may not construct a building or structure that straddles the boundaries of two or more contiguous land units unless the owners of the contiguous land units have either taken legal steps to the City Manager's satisfaction, to ensure that such land units cannot be separately sold, leased, alienated or otherwise disposed of or the City has approved the consolidation of the land units."

- 1.4. The Development Management Scheme continues this principle and states in item 8(5):

"(5) If legal steps are taken as contemplated in section 50(1) of the By-law, the development rules applicable to the zoning of each land unit remains applicable."

- 1.5. Based on the above, if properties are tied together, they must be treated as two independent properties when applying development rules with no interaction between the two.

1.6. Notarial ties can be done in the following situations:

- 1) Where there are different owners of the land units which would then preclude (prevent) consolidation.
- 2) Where the owners of the land units are the same with existing structures straddling the boundary, and alterations and additions to the existing structures are now proposed, which will straddle the boundary.
- 3) A consolidation is legally not possible when two adjacent erven are in different allotment areas. Also, when tying two erven that are in different registers – e.g. the land register and the sectional title register. This makes a consolidation impossible (unless the registers are changed).

1.7. A notarial tie is an available option, but it should remain an option that is only supported and applied if exceptional circumstances can be motivated and justified, and where it is agreed that consolidation is inappropriate. A consolidation remains the default requirement when properties are to be joined for the purposes section 50(1) of the MPBL.

1.8. Applicants are to please note that if the option of a notarial tie is used, that Item 8(5) will be applicable.

(5) If legal steps are taken as contemplated in section 50(1) of the By-law, the development rules applicable to the zoning of each land unit remains applicable.

1.9. Item 8(5) means that even if notarial tied, the two properties must be seen as separate, and the development rules must be applied to each property individually and not as a whole. This includes setbacks, access, parking requirements, etc.

Motivation for notarial ties

- 2.1 The requester must properly motivate why consolidation is not appropriate and cannot support the development of the land. The notarial tie option has been routinely supported when an existing lawful building already straddles the property boundaries, and the owner wishes to add or alter the building. This practice remains acceptable and should be retained.



PLEASE NOTE

It is important to acknowledge that certain aspects of the MPBL are complex, and the details thereof extend beyond the scope of this advisory. To gain a comprehensive understanding, you are strongly encouraged to consult the MPBL directly, alongside referring to previous advisories where some of these complexities have been explained in more detail.