



DEVELOPMENT MANAGEMENT SCHEME COMPLIANCE ADVISORY: 5 OF 2026

TRANSFER (SECTION 137) CERTIFICATE IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL)

This advisory is a supplement and needs to be read together with Advisory 15 of 2021

1. BACKGROUND

The development industry has raised a concern with respect to the process to obtain subdivision and consolidation condition compliance confirmation from relevant internal commenting departments. The applicable law requires from the applicant to obtain and submit proof of compliance upon submission of a section 137 transfer certificate request. In response to this concern the Development Management Department is leading and coordinating the development of a consistent approach for all requests from developers and their consultants to obtain confirmation ("happy letters") from relevant commenting departments that they are satisfied that all relevant conditions are complied with.

This initiative will also cover a system solution and will therefore be dealt with in two stages, the first stage will be an immediate intervention that will be the purpose of this advisory and the second stage will be a further assessment of a potential upgraded or new electronic submission system for all requests to commenting departments for proof of compliance of conditions (the "happy letters"). The project charter to investigate the development of the latter system is being considered by a designated team.

2. PURPOSE

The purpose of this advisory is to communicate measures that will be effective immediately to establish an escalation mechanism when commenting departments are not responding to requests for confirmation of compliance with subdivision and consolidation conditions and/or when unreasonable requirements are placed on the developer which are not conditions of approval. This is to improve good governance, transparency, and efficiency in the process to obtain proof for the submission of the official Section 137 transfer certificate.

3. SCOPE AND APPLICATION

This advisory applies to all Section 137 transfer certificate request matters arising from approved subdivisions and consolidations, across all eight planning districts. It does not alter the legal obligations of any party.

4. LEGAL POSITION

4.1. The relevant authority to issue a transfer certificate lies in section 137 of the MPBL.

The relevant extract from the MPBL is shown below:

“137 Transfer certificate

- (1) A transferor intending to effect the first registration of transfer of a land unit or to obtain a certificate of registered title which arises out of an approved subdivision within the geographic area of the City must provide the City Manager with proof to the satisfaction of the City Manager that all the further requirements contemplated in section 54(1) have been met.
- (2) A transferor intending to effect the registration of transfer of a land unit within the geographic area of the City that is indicated on the system as being subject to the action referred to in paragraphs (a) and (b), must provide proof to the satisfaction of the City, that—

 - (a) in cases where a contravention levy was imposed in terms of the Ordinance and or an administrative penalty contemplated in section 129 was imposed— that the levy or penalty has been paid.
 - (b) in cases where a directive has been issued in terms of section 128— that the directive has been complied with.
- (3) If the City Manager is satisfied that the requirements of subsection (1) and (2) have been met, or if the City Manager waives compliance with subsection (2), they must issue a certificate authorising the transfer and, if the land unit arises out of an approved subdivision, the City Manager must issue a certificate for each land unit and may only issue a certificate for a land unit within a phase approved by the City.
- (4) No person may apply to the Registrar of Deeds for, and the Registrar of Deeds may not register, the transfer of a land unit without the certificate contemplated in subsection (3).
- (5) If a certificate contemplated in subsection (3) is issued in error—

TRANSFER (SECTION 137) CERTIFICATE IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL)

- (a) *the new owner must still comply with all outstanding requirements contemplated in subsection (1), regardless of whether another person also has the duty to do so;*
- (b) ... "

4.2. Section 137(1) requires that the transferor provide the City Manager with proof to the satisfaction of the City Manager that all the further requirements contemplated in section 54(1) have been met.

"54 Transfer of land unit arising out of approved subdivision

- (1) *No person may obtain transfer of a land unit or a certificate of registered title of a land unit arising out of an approved subdivision or phase of a subdivision approved by the City unless—*
 - (a) *the Surveyor-General has granted the approval contemplated in section 53;*
 - (b) *engineering services for the area or the approved phase of a subdivision on the approved general plan or diagram have been installed completely, where they are required by the conditions of approval, contemplated in section 52(4) and any other applicable legislation;*
 - (c) *all other conditions of subdivision or the conditions relating to the approved phase of a subdivision on the approved general plan or diagram and all conditions precedent to the transfer of the land unit have been met; and*
 - (d) *where an owners' association is required—*
 - (i) *the City has certified the constitution of the association under section 62(2);*
 - (ii) *the association has been or will be established upon transfer of the first land unit under section 61(5); and*
 - (iii) *all land designated in terms of the conditions of approval to be transferred to the owners' association, including private roads and private open space, arising from the subdivision or approved phase of a subdivision have been, or together with the transfer of the first land unit, will be transferred to the association without compensation.*

5. SUBMISSION REQUIREMENTS AND ACTION STEPS

TRANSFER (SECTION 137) CERTIFICATE IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL)

- 5.1. A request by a developer to a commenting department to confirm compliance with conditions:
 - 5.1.1. The developer needs to have considered, understood, and accepted all relevant subdivision conditions by the time the appeal period has lapsed.
 - 5.1.2. The developer must ensure that conditions have been complied with prior to approaching a commenting department for confirmation of compliance.
 - 5.1.3. The developer would have all the contact details of the commenting officials, or could obtain it from the case officer, and should make contact with the commenting official when conditions have been complied with or to make an appointment to inspect compliance or to obtain requirements from the commenting official the requirements for compliance.
 - 5.1.4. The commenting official must be available and responsive for all compliance confirmation requests. A reasonable timeline would be 5 working days for a response to requests.
 - 5.1.5. The commenting official may not make unreasonable request to the developer or require compliance with requirements not provided for in the conditions of approval.
 - 5.1.6. The outcome of all requests should either be the commenting official providing a document (control sheet, email, letter, or memorandum properly signed by an commenting official) that he/she is satisfied of compliance with conditions or written reasons why the request was not confirmed.
- 5.2. A request for a formal Section 137 transfer certificate by the developer is subject to the following minimum requirements:
 - 5.2.1. It must be submitted on the e-Services portal by completing the necessary information fields and attaching all required documentation and information (control sheet, email, letter, or memorandum properly signed by an commenting official) confirming compliance with the subdivision conditions.
 - 5.2.2. The onus is on the transferor to obtain and submit proof of compliance.
 - 5.2.3. A submission will only be considered complete when the developer has submitted confirmation of compliance of all commenting departments that have conditions imposed for their clearance.
 - 5.2.4. The City will return a section 137 transfer certificate requests if all necessary proof of compliance of the respective commenting departments have not been attached.
 - 5.2.5. The case officer for the land use application must be available to guide and advise the developer on the requirements for the submission of transfer certificate requests and related matters.

TRANSFER (SECTION 137) CERTIFICATE IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL)

- 5.3. **Escalation Procedure and Matrix:** In instances where the developer encounter unlawful, unreasonable, conflicting or inconsistent requirements from commenting departments, the relevant LUM Section Head or District Manager can be contacted as an escalation point. These officials would act as the arbitrator between the developer and the relevant commenting department and may overrule commenting officials if they are non-responsive or set additional or unreasonable requirements that are not aligned with process efficiencies or existing conditions of approval.

Where a commenting department is non-responsive, or imposes requirements not provided for in the conditions of approval, the matter may be escalated as follows:

Tier	Escalate to	When
Tier 1	LUM Section Head	No response within 5 working days, or a requirement appears outside the conditions of approval.
Tier 2	District Manager	Matter remains unresolved at Section Head level, or a dispute persists.
Tier 3	Line-department senior management	Officials remain non-responsive, or unreasonable requirements persist.
Last resort	ED: Spatial Planning & Environment	Matter cannot be resolved through the tiers above.

The link to the respective District Managers and Sections Heads are as follows:

Table Bay district:

District Manager:

Marx Mupariwa (marx.mupariwa@capetown.gov.za)

Section Head: Land Use Management:

Gregory September (gregory.september@capetown.gov.za)

Blaauwberg district:

District Manager:

Linah Dube (ngwanamogano.dube@capetown.gov.za)

Section Head: Land Use Management:

Rafiq Allie (rafiq.allie@capetown.gov.za)

Northern District:

TRANSFER (SECTION 137) CERTIFICATE IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL)

District Manager:
Susan Matthysen (susan.matthysen@capetown.gov.za)

Section Head: Land Use Management:
Elmari Marais (elmari.marais@capetown.gov.za)

Tygerberg District:

District Manager:
Dewaldt Smit (dewaldt.smit@capetown.gov.za)

Section Head: Land Use Management
Dewaldt Smit (dewaldt.smit@capetown.gov.za)

Helderberg District:

District Manager:
Daan Visser (daniel.visser@capetown.gov.za)

Section Head: Land Use Management
Jeanine Williams (jeanine.williams@capetown.gov.za)

Khayelitsha Mitchells Plain District:

District Manager:
Danette de Klerk (danette.deklerk@capetown.gov.za)

Section Head: Land Use Management
Danette de Klerk (danette.deklerk@capetown.gov.za)

Cape Flats District:

District Manager:
Chad Newman (chad.newman@capetown.gov.za)

Section Head: Land Use Management
Joy San Giorgio (joy.sangiorgio@capetown.gov.za)

Southern District:

District Manager:
Craig Alexander (craig.alexander@capetown.gov.za)

Section Head: Land Use Management:
Pierre Hoffa (pierre.hoffa@capetown.gov.za)

6. ROLES AND RESPONSIBILITIES

- 6.1. The developer (inclusive of the owner/transferor/consultant)
 - 6.1.1. To have obtained and accepted all relevant approval and conditions.
 - 6.1.2. To initiate and ensure compliance with relevant conditions of subdivision prior to requesting a certificate for transfer in terms of section 137 of the MPBL.
 - 6.1.3. To have identified and obtained all contact details of commenting officials for necessary engagements when required.
 - 6.1.4. To accept the onus and responsibility for obtaining the necessary proof of compliance prior to making a request for a certificate for transfer.
- 6.2. Commenting departments
 - 5.2.1 To be available to guide and advise a developer within 5 working days on requests for confirmation of compliance with conditions.
 - 5.2.2 To only consider conditions of approval imposed by the decision maker when considering a request for compliance.
 - 5.2.3 To not set unreasonable requirements for the consideration of compliance requests.
 - 5.2.4 To ensure that commenting officials have identified a substitution to consider requests and it appears on their "Out of Office" Outlook replies if they will be out of office for more than 3 working days.
 - 5.2.5 To verify the official section 137 transfer certificate requests work flowed on DAMS2 within 5 working days.
- 6.3. Development Management Department
 - 6.3.1. To receive and circulate section 137 transfer certificate requests within 5 working days.
 - 6.3.2. To issue section 137 transfer certificate withing 5 workings days after the last verification confirmation has been received.
 - 6.3.3. To ensure that the full section 137 request record is kept of the DAMS2 case.
 - 6.3.4. The case officer / Section Head: Land Use Management / District Manager is empowered to overrule any unreasonable requirement or additional conditions that has not been lawfully imposed by the decision maker and required by the commenting official during either the compliance confirmation phase or the official section 137 request.
 - 6.3.5. To ensure the escalated cases have been recorded in the relevant Section 137 district escalation register.

7. Implementation

These interim measures:

- 6.1 Take effect immediately upon issuance of this advisory.
- 6.2 Do not change the legal obligations of the developer and any affected party.
- 6.3 Provide a managed and transparent mechanism to resolve operational challenges in the absence of a system solution.
- 6.4 Aim to reduce delays, disputes, and escalations to executive offices.



PLEASE NOTE

Always consult the City of Cape Town Municipal Planning By-law, 2015 (as amended), before any land use application is submitted to the Department.