



DRAFT POLICY AND GUIDELINES FOR DEVELOPMENT APPLICATIONS INVOLVING BUILDING STRATA LOTS - INTRODUCTION

RECOMMENDATIONS

1. That the Board receive the draft Policy and Guidelines for Development Applications Involving Building Strata Lots, as provided in Attachment 1.
2. That the Board approve the proposed consultation plan for the draft Policy and Guidelines for Development Applications Involving Building Strata Lots as outlined in Attachment 3, and direct staff to proceed with consultation.

BACKGROUND

At the regularly scheduled Regional District of Nanaimo (RDN) Board Meeting on September 24, 2024, the Board passed the following resolution:

No. 24-487 *That the Board direct staff, following the adoption of Bylaw 2500, to prepare a draft policy and guidelines on Additions, Replacement, and New Buildings on Parcels Containing a Building Strata Development.*

In response, this report provides a draft policy and guidelines on Additions, Replacement, and New Buildings on Parcels Containing a Building Strata Development.

The RDN is one of the few regional districts experiencing the creation of rural building strata developments. These developments typically occur on vacant rural parcels where zoning permits two dwelling units. Each dwelling is constructed and then registered as a separate strata lot under the *Strata Property Act*, often with limited common property or a designated “yard” area surrounding each unit.

Under section 68(2) of the *Strata Property Act*, it is possible to create separate legal titles for individual buildings on a parent parcel by registering a building strata plan. These plans generally define strata lot boundaries by the exterior surfaces of the buildings, resulting in the formal stratification of each dwelling unit. Once registered with the Land Title and Survey Authority (LTSA), the strata corporation and strata lot owners are subject to the provisions of the *Strata Property Act*.

Discussion

The RDN consistently receives applications from strata lot owners for additions to existing buildings or the construction of accessory buildings that are not shown on the registered strata plan. These proposals often impact common property or necessitate amendments to the building strata plan.

Section 120 of the *Strata Property Act* states that strata corporations are governed by the Standard Bylaws as defined by the *Strata Property Act* unless alternate bylaws have been filed with the LTSA. The Standard Bylaws (section 5) require strata corporation approval for structural changes to buildings, modifications to exterior elements, or any alterations that affect common property or areas the strata corporation is required to insure.

Many property owners within building stratas are not fully aware of the nature of this type of ownership, the requirements of the *Strata Property Act*, or the implications such ownership may have on the use and development of their property. Zoning regulations apply to the parcel as a whole rather than to individual strata lots. As a result, the RDN typically requests a letter from the other strata lot owner confirming that they are aware the proposed building or structure may reduce their ability to construct additional accessory buildings or may impact the shared parcel coverage allowances.

However, obtaining this letter can be challenging. In many instances, property owners are unaware they reside within a building strata, do not personally know the other strata lot owner, or have not entered into any agreement on how zoning entitlements, such as floor area or parcel coverage, are to be allocated.

In response to inconsistencies in how building permit applications involving building stratas have been managed in recent years, the RDN sought legal advice to clarify its role and responsibilities. The advice provided by the RDN's legal counsel informed the development of the draft Board Policy and Guidelines for Development Applications Involving Building Strata Lots (see Attachment 1). The RDN has had a satisfactory legal review of the policy.

The legal advice confirmed that the RDN should not issue building permits for proposals that would alter common property or common assets unless those changes have been approved by a $\frac{3}{4}$ vote resolution at an annual or special general meeting of the strata corporation.

While the *Strata Property Act* does not assign the RDN responsibility for enforcing compliance with strata bylaws, it is the applicant's responsibility to ensure all applicable strata requirements are met prior to, or as part of, the building permit process. The RDN must continue to enforce its own Building Regulation Bylaw No. 1250, 2010, including the requirement under Section 7(1) that building permits may only be issued when applications comply with all relevant bylaws, codes, and enactments.

As the *Strata Property Act* requires that strata plans be amended when changes are made to common property, the legal advice further recommends that the RDN withhold final inspection or occupancy approval until the amended strata plan has been registered with the Land Title and Survey Authority (LTSA).

Should an applicant fail to register the required amendment, the strata lot owner—not the RDN—would be in breach of the *Strata Property Act*, and likely in contravention of the strata corporation's bylaws and rules. However, it would be considered best practice for the RDN to require confirmation of the strata resolutions and the amendments to strata plans through the building permit process.

Policy Rational

To ensure consistency, transparency, and legal compliance in processing building permit applications on building strata properties, staff recommend the adoption of a policy that:

- Clarifies the documentation and approvals required from strata corporations under the *Strata Property Act*;
- Outlines the RDN's expectations with respect to strata plan amendments;

- Confirms the RDN's authority to regulate through its zoning and building bylaws; and
- Reinforces that it is the applicant's responsibility to obtain all necessary strata approvals prior to submitting a complete building permit application.

The proposed policy will provide clear guidance to staff and applicants, reduce uncertainty, and support lawful development of building strata properties.

ENGAGEMENT

While there are no legislated requirements for seeking community input on the draft policy, it is recommended that the Board approve the proposed consultation plan as outlined in Attachment 3.

FINANCIAL IMPLICATIONS

No additional resources are required by the planning department to administer the draft policy. Having a policy in place will ensure that the impacts to staff resources are minimized. Therefore, the draft policy has no implications related to the Board 2025 – 2029 Financial Plan.

STRATEGIC PLAN ALIGNMENT

The proposed policy has been reviewed and has no implications for the 2023 – 2026 Board Strategic Plan.

REVIEWED BY:

- P. Thompson, Manager, Current Planning
- L. Grant, General Manager, Development and Emergency Services
- D. Holmes, Chief Administrative Officer

ATTACHMENTS

1. Attachment 1 – Draft Policy and Guidelines for Development Applications Involving Building Strata Lots
2. Attachment 2 – Draft Building Strata Declaration Form
3. Attachment 3 – Proposed Consultation Plan