



# **Professional Reference Manual**

## **Chapter 9**

Version: 3.7

April 2024

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## Chapter 9 - Strata Title Surveys

### Part 1 – Strata Property Act Survey Principles

The *Strata Property Act* came into effect in July 2000 and replaced the *Condominium Act* of 1979 (referred to as the former *Act*). It is a provincial statute that establishes the ability for tenure to be granted to a portion of a building or a portion of land, together with certain rights and interests in common facilities and common property. A key distinction between the *Strata Property Act* and other forms of tenure is that the *Strata Property Act* sets out rules of governance for the owners. If tenure is allocated using other methods such as Air Space, Leasehold or Tenants In Common the development team should also consider putting in place a governance structure.

The products of the *Strata Property Act* are the strata plan and the strata corporation. The strata plan is prepared by a British Columbia Land Surveyor and the strata corporation is created when a strata plan is deposited and registered in a Land Title Office. This distinction is important for the land surveyor to recognize because the land surveyor may share in responsibility for establishing the ultimate structure of the strata corporation. This shared responsibility arises from decisions that the land surveyor makes in preparing the strata plan such as location and extent of common property, limited common property, the strata lots, and the method of apportioning unit entitlement and voting rights. These decisions may not fall entirely to the land surveyor, but as a professional signing a strata plan and preparing the accompanying forms, the land surveyor should be advising the client on the impact of the decisions being made.

*Strata Property Act* surveys can be complicated and this paper cannot cover all of the different scenarios that may be encountered. It is important to discuss the different principles with other land surveyors, get examples of different types of plans from the Land Title Office and refer to the available publications. Many questions can be answered by reference to the *Strata Property Act*, *Strata Property Regulation*, *Bare Land Strata Regulations*, *Bare Land Strata Plan Cancellation Regulation* or the *Survey and Plan Rules*. Some other good publications include the British Columbia Strata Property Practice Manual and McCarthy Tétrault's Annotated British Columbia Strata Property Act. Staff at the Land Title Offices may also be a resource for the land surveyor. Case law is also an important resource to guide the land surveyor as a strata plan is prepared. Some interesting cases include:

- 1) 2003 BCC 0523 – Accessory building and new construction v conversion
- 2) 2004 BCSC 1132 – converting non-habitable area to habitable area
- 3) 2007 BCSC 1711 – implied easements and ratifying contracts
- 4) 2010 BCSC 0519 – LCP definition
- 5) 2010 BCSC 1725 – vertical extents
- 6) 2017 BCCRT 17 – extent of a strata lot
- 7) Civil Resolution Tribunal – Strata Property Decisions

#### 8) 2019 BCSC 1311 – amendment to plan and roof deck

It should also be noted that strata plans are to be filed electronically in the Land Title Office. This means that all certificates signed by the land surveyor are now part of the Survey Plan Certification form and all signatures by any other party have been moved to the Application to Deposit Form. In most cases there will be a corresponding statement on the strata plan image for approvals given on the Application to Deposit Form.

### USES OF A STRATA PLAN

Fundamentally the primary purpose of a building strata plan is to document the location of certain walls, floors and ceilings in a building and to reference strata lot boundaries to those features. The strata plan serves as a record of where the features were located at the time the strata lots were created. The strata plan also allocates strata lot numbers to each unit which are in turn used in the legal description for each strata lot and describe what space is associated with a Certificate of Title. The area of each strata lot as shown on a strata plan along with designation of habitable and non-habitable space within a strata lot may be used as the basis for the calculation of unit entitlement. Lastly, the strata plan can allocate limited common property.

In other words, the primary use of a strata plan is as a means of raising title to strata lots and to trigger the creation of a strata corporation. Strata plans are also used for management of the strata. It can be helpful to future owners and managers when a strata plan is prepared in a manner that provides clarity for the future management of the strata corporation. Some considerations may include:

- Labelling in a manner that assists owners and managers to easily understand what features define the extent of a strata lot. This is particularly true when a strata lot boundary does not follow the centreline.
- Strata plans are often reviewed when there is a question regarding who is responsible for the maintenance of a space.
- The vertical limits of limited common property can become important in the management of a strata. To the extent possible labels on the strata plan should express the limits using terms that are commonly understood by owners and managers
- A high-cost maintenance item in buildings are waterproofing membranes. A strata plan most likely will not label the location of a membrane but the location of the limit of a strata lot or limited common property where membranes exist can influence who needs to pay for the maintenance.
- To the extent possible it is helpful where there is consistency between the strata plan, the disclosure statement and the initial bylaws of the strata corporation. A review of these documents by the land surveyor as the strata plan is being prepared can facilitate consistency.

### 1) Boundaries of Strata Plans When Encroachments Exist

Section 240 of the *Strata Property Act* defines the criteria for title to the land upon which a strata plan is based. The *Strata Property Act* does not have the flexibility to deal with boundary anomalies, such as accretion and erosion, in the same manner as the *Land Title Act*. It is therefore important for title to be based on an up-to- date *Land Title Act* subdivision or reference plan so that issues such as accretion, erosion, boundary discrepancies and building encroachments are resolved prior to

deposit of the strata plan. A strata corporation may own or lease property; however, the process to have adjacent land incorporated into a strata plan at a later date is quite onerous.

Land Title Offices follow a policy that requires any building encroachment to be addressed by a registered instrument on file either prior to the deposit of the strata plan or filed concurrently. The term “building” is not specifically defined. This leaves each land surveyor to research a definition, however, permanent structures such as eaves, gutters, footings, trim, cornices, windowsills, etc., are usually considered part of the building, therefore the land surveyor should be vigilant to look for these types of possible encroachments. Many jurisdictions have policies and bylaws regarding semi-permanent and temporary structures such as signs and awnings, therefore the question of whether or not these features are part of the building is often a judgment call. It is prudent to consult with the local jurisdiction and the Land Title Office when these situations arise.

If an encroachment is found, options may include removal of minor encroachments, obtaining an easement to cover the encroachment, or obtaining title to the area of the encroachment and consolidating it with the parent parcel prior to deposit of the strata plan. If an encroachment occurs over a road or park it may be necessary to go through a process where a portion of road or park is closed, title is raised as a fee simple parcel and consolidated with the parent parcel, or an air space parcel is created and an easement is registered. In the City of Vancouver, the Vancouver Charter gives title of roads to the city; therefore, the city is able to provide easements. It is prudent to consult the City of Vancouver Surveyor when these situations arise. Section 35(11) of the Community Charter should also be considered. This section allows the local government to raise title to road for the purpose of registering an easement without having to actually close the road.

It is critical that the land surveyor ensure that necessary registered instruments such as easements are in place to allow for any building encroachment so that the land surveyor can comfortably sign Form U stating that the building is wholly within the external boundaries of the land, or that the encroachment is covered by a registered instrument such as an easement. The land surveyor should note that the Form U statement is to be expanded to identify that encroachments exist and list the registered instruments that cover the encroachments. The Form U certification is located on the LTSA Plan Certification Form.

If an encroachment exists, the ‘Strata Form U1/ U2’ toggle will be selected on the Survey Plan Certification form - doing so will display additional fields. One of these fields is the ‘Registered Charge Number(s)’ field, which anticipates the instrument number of the filed registerable instrument being provided. If the instrument is registered, then the surveyor may enter the registered charge number into this field. In some instances, the instrument will not yet be registered, as it will be included in the LTSA submission. In this case, the Land Title and Survey Authority has advised that the surveyor can describe the easement in the form with reference to its execution date, as highlighted in the following example:

I am a British Columbia land surveyor and certify:

1. That the buildings shown on this strata plan are within the external boundaries of the land that is the subject of the strata plan subject to clause 2 of this endorsement
2. That certain parts of the buildings are not within the external boundaries but appropriate and necessary easements of other interests are registered as set out in section 244 (1)(f) of the Strata Property Act.

Registered Charge Number(s): Easement submitted concurrently with this plan, executed YYYY/Month/DD

Certification Date: 2021 January 01 (YYYY/Month/DD)

An easement plan number can also be included to further unambiguously identify the relevant document. The actual document number is not necessary when it is sufficiently described. The notion of adding the document number via a Plan Alteration/new SPC post submission, after a defect notice has been issued, is not encouraged as this changes the control number.

## 2) Determining Boundaries of Strata Lots

In a *Land Title Act* or *Land Act* survey, a plan prepared by a land surveyor is an integral part of creating a fee simple title. The dimensions on the plan are the best representation of the distances between the survey posts set or found, however, it is ultimately the survey posts that govern the size, shape and dimension of the lot in the future. Section 68 of the *Strata Property Act* has refined the criteria for defining the boundaries of strata lots as midway between the surfaces of the structural portion of the wall, floor or ceiling, unless otherwise shown in a manner approved by the registrar. The location of the strata lot boundary is important when looking at the broad concepts of the *Strata Property Act*. The underlying reason for using the centreline is for fairness when calculating the unit entitlement.

In recent years there has been a trend to adopt some portion of the exterior part of a wall as the strata lot boundary and to note such a definition on the strata plan. If a land surveyor, in consultation with their client, is going to define a strata lot boundary in a location other than the centreline of a wall, floor or ceiling it is considered good practice for the land surveyor to:

- a) Review the *Strata Property Act* and take into consideration the impacts of the decision not to use centreline. In particular, the land surveyor should assess the impact of Section 72 and whether or not the appropriate Bylaws have been established pursuant to Section 72(3) for the care and maintenance of the exterior walls of the strata lot.
- b) Appropriately label strata lot boundaries that do not follow the centreline of walls, floors and ceilings in a manner that will allow unambiguous retracement of those boundaries in the future.
- c) If the strata lot boundaries follow the centreline of the walls, then it is good practice to make a note of this on the plan.

Whether a land surveyor chooses to use the centreline, inside, or outside face of a wall or any other surface, they should carefully consider, in consultation with the owner developer, how the position of that boundary will impact the end use of the strata lot, common property or limited common property being defined.

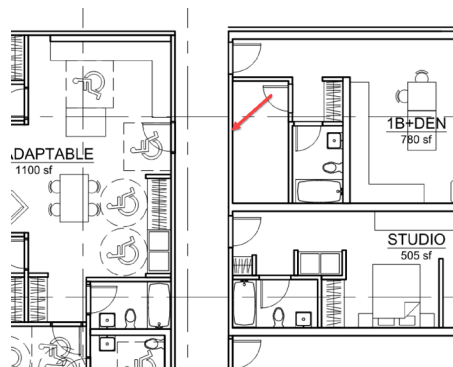
Section 68 of the Act provides guidance in the situation when a wall does not exist and there is a need, or desire, to define a strata lot boundary. This situation may occur for a deck, patio, parking space or

storage area that is to be included as part of the strata lot and it is therefore essential to create a physical definition in a form that a future owner can readily identify.

Regardless of whether a strata lot boundary is established at the centreline, at some other part of a wall or in reference to a wall the land surveyor is faced with interpreting a variety of different materials and construction techniques when measuring any wall. The following review of wall types cannot cover all possibilities. It is intended to provide some guidance on the most common wall types found.

- *Simple frame walls*

The most common wall type found is a simple frame wall that will consist of wood or steel studs with a finish material such as a single layer of drywall on each side. Design drawings often illustrate this type of wall with two parallel lines:

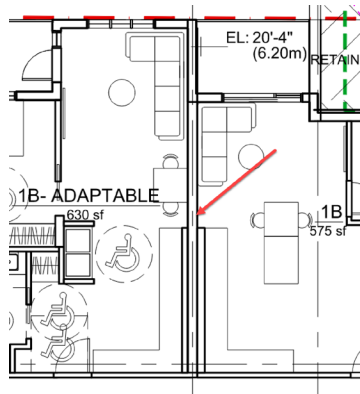


In some cases, there may be two layers of drywall on one of the sides as a means of providing sound proofing and/or increased fire rating. Additional techniques such as adding resilient channel between studs and drywall to assist with soundproofing may be found. In some cases, there may be a layer of plywood or shiplap between the studs and the drywall to provide shear strength. At times the cavities between the studs may be insulated.

When the strata lot boundary is placed on the centreline it is common to use the center of the stud or the stud and the shear material as applicable. If the strata lot boundary is being defined in a location other than centreline significant care and detail is required by the land surveyor to ensure that the location of the strata lot boundary can be determined in all future years regardless of alterations to the material used to cover the studs. Additional layers such as drywall and resilient channel could be replaced in a renovation with different material that has a different thickness which would make it a challenge to determine the location of the original material that defines the location of a strata lot boundary if something other than centreline is used.

- *Double stud party walls*

In framed buildings the walls that separate the units are commonly constructed by erecting two stud walls with a small gap between them. Design drawings often illustrate this type of wall with two parallel lines and a grid line between as is seen below:



In most cases this style of wall will be used to separate two strata lots therefore the strata lot boundary will fall in the middle of the gap between the two stud walls. This works well because the strata lot boundary is independent of any finish layers added to the face of the studs.

If there is a reason to place the strata lot boundary in a location other than the center of the space between the stud walls the land surveyor must provide a suitably detailed description of the location of the strata lot boundary. This is to ensure that it can be re-established in the correct location in the future regardless of any renovations that may occur after the strata plan is deposited.

- *Walls with windows*

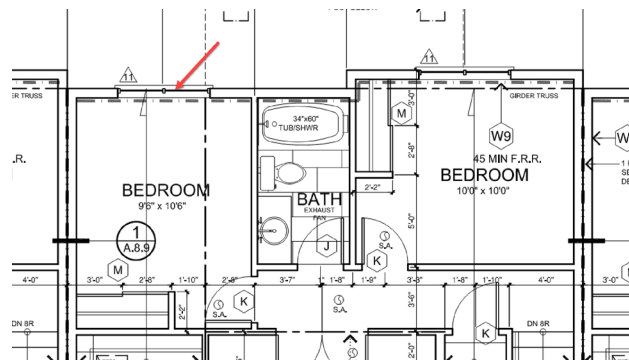
Windows can pose a significant challenge when measuring a strata and determining the location of strata lot boundaries. Sometimes the glazing is centered in the window frame which is centered in the stud wall. In cases like this the centreline of all the materials align and when the strata lot boundary is established at the center of the wall then it becomes quite straightforward. If, however, the strata lot boundaries are somewhere other than centreline should the strata lot boundary be jogged in to follow the glazing? There is no absolute right or wrong answer. The land surveyor should consider the merits of each strata plan individually with the main criteria being that all strata lots within the strata plan that have the same conditions be treated consistently.

Another very important consideration for the land surveyor when determining the location of a strata lot boundary in relation to a window is the ultimate responsibility for the repair and maintenance of the windows. By default, the Standard Bylaws set out in the Strata Property Act are assigned to all strata corporations unless the developer files alternate bylaws. Section 8 of the Standard Bylaws states that the strata corporation shall be responsible for the repair and maintenance of the structure of the building, the exterior of the building and doors, and windows and skylights on the exterior of a building or which abuts



the common property. When the Standard Bylaws are in effect, or if replacement bylaws that provide for similar responsibilities, the importance of the decision on the location of a strata lot boundary at each window is lessened. It is considered good practice to review the Disclosure Statement to determine who is responsible for the repair and maintenance of the windows as part of the determination of the location of the strata lot boundary.

There are also many cases where the glazing does not follow the centreline of the stud wall as is illustrated below.



All the considerations noted above should be taken into account. In addition, where the strata lot boundary is to be the centreline, the land surveyor should consider the dominance of the offset glazing wall by wall. In cases where the offset glazing is dominant floor to ceiling it may be appropriate to consider jogging the strata lot boundary to follow the glazing.

The concept that all planes of a wall may not align vertically can occur regularly in buildings that use the suspended slab and steel stud construction techniques. For example, there may be a concrete sill with a framed wall on top and the inside face of these elements may not align creating a sill. Then a window may be installed with the glazing set on a different plane resulting in three different interior faces. Should a strata lot boundary ignore these vertical differences, or should they be accounted for in some fashion?

Like many strata related questions there is no right or wrong answer. From an ownership perspective the interior surface of all the vertical planes should be included within the strata lot. Similarly, it may be appropriate to include all exterior surfaces in the common property. The strata plan should also describe the location of the strata lot boundary in a manner that is unambiguous. The land surveyor is free to use professional judgement and drafting techniques to prepare a strata plan that clearly defines the location of a strata lot boundary. It is up to the land surveyor to use a combination of plan views, cross section views and descriptive notations to articulate where the strata lot boundaries are.

The final type of window wall to be discussed here is a cantilevered window that does not extend from floor to ceiling. This situation could occur with a bay window that has a seating area, or it could be a greenhouse window, commonly found in a kitchen area. On the one hand the volume in this window area is clearly a part of the strata lot. On the other hand, as a result of the floor of the window space being elevated, it is not an area that one can stand

in. This raises the question of whether the space should be considered habitable or not. This is another case-by-case evaluation for the land surveyor to make on site. It may be appropriate to show this area on the floor plan as part of the strata lot and as habitable or it may be more appropriate to separate the area and show it as non-habitable space. In either case it is critical that a cross section view be provided to show that the space is not floor to ceiling to the same vertical dimensions as the rest of the strata lot.

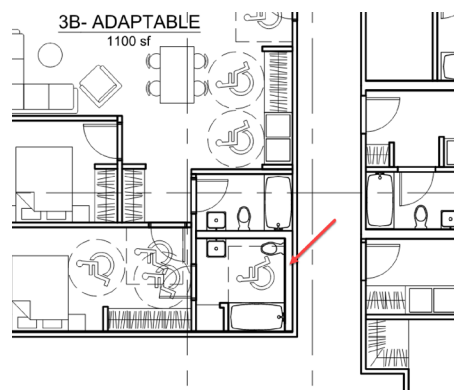
To summarize, windows require a lot of thought and consideration. Significant care is needed when identifying where the strata lot boundary is relative to the wall and the window to provide clear guidance for a strata lot owner or another land surveyor. Members should strive to create a plan that is unambiguous when it comes to the location of strata lot boundaries, in particular, where there are windows. Use cross sections and/or descriptive words to illustrate cases where a strata lot boundary location alters vertically.

- *Plumbing Walls and Furring Walls*

When is a wall not really a wall for the purposes of determining a strata lot boundary? Sometimes during the construction process an extra wall is added towards the interior of a strata lot to provide space for plumbing, ducting or simply to allow the final finished surface to be more appealing or easier to deal with. These extra walls are often referred to as a plumbing wall or a furring wall. Plumbing walls are commonly found where a kitchen or bathroom is adjacent to an exterior wall or a party wall. Furring walls are common only used to face concrete surfaces such as an elevator or stairwell core.

The key consideration for the land surveyor is whether or not this wall could reasonably be removed or altered if the unit were to be renovated. If the land surveyor feels that the extra wall could be removed completely or its width altered during renovation then it would be reasonable to disregard the extra wall when determining the strata lot boundary. If, however, the style of construction would prevent a strata lot owner from altering the wall then it should be taken into account.

The diagram following is an example of an extra wall as shown in the design drawings:

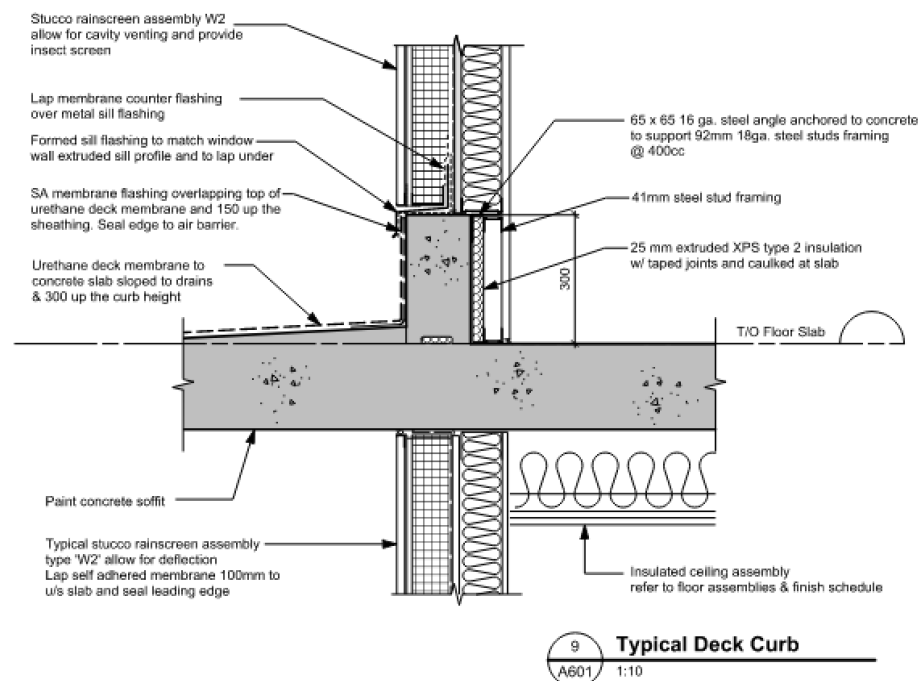


- *Rainscreen on exterior walls*

Exterior finishes can vary drastically from building to building and even from one part of a building to another part of the same building. Typically, a rainscreen structure is comprised of a gap between the structural portion of a wall and the exterior beautification/weather protection layer. The idea being that if moisture penetrates the very exterior finish there will be a place for it to go and exit rather than sitting against the main wall. Exterior finishes can also vary significantly in thickness. They can be as thin as a centimetre or two for stucco and some forms of siding or as thick as 10 or 12 centimetres for brick or rock. Over time exterior finishes can be replaced with different materials that may have a different thickness.

If the strata lot boundary is placed in the center of the structural portion of a wall then the exterior finish should be disregarded. (This is true of the interior finish as well). However, if something other than centreline is to be used then it becomes very important to clearly define where the strata lot boundary is relative to a surface that can be both easily identified and will remain consistent for the life of the building.

Rainscreen and other exterior wall assemblies can be far more complex than described above.



Some buildings will use complex wall systems that integrate the exterior finish, the rainscreen protection, insulation, structure, glazing and interior finish. The land surveyor may want to consider consulting the building architect to gain an understanding of each of the components of a complex wall system. If the intent is to position the strata lot boundary in the center of the structural portion of the wall then the architect will be able to identify where this is. If the intent is to place a strata lot boundary other than at the centreline then the architect may be able to provide appropriate terminology to label on the strata plan that will identify where the strata lot boundary is.

- *Concrete walls*

In some buildings concrete walls and columns are used for support and shear strength. These walls and columns can be considerably thicker than the frame walls in the vicinity. Historically different land surveyors have dealt with these concrete elements in different ways. Some options may include:

- Treat them like any other wall and place the boundary down the centreline or at least as an extension of where the boundary is in an adjacent wall.
- Completely exclude them from the strata lot and leave them as common property.
- Set the strata lot boundary at a fixed distance from one face of the concrete. Typically, the fixed distance is equivalent to half a wall thickness for other nearby walls.

Any of these options may be acceptable. In determining which to use the land surveyor may want to consider equity with other units that have the same layout. The extent of a strata lot and in particular the area of each strata lot is primarily used to determine Unit Entitlement. An excessively thick concrete wall that creates space that is an unusable area should not cause that unit to have a larger or smaller unit entitlement than an equivalent unit in the same complex.

Another fundamental principle of a strata lot within a building is that the strata lot is three dimensional. When measuring a strata lot a land surveyor is faced with making decisions regarding the location of strata lot boundaries and it is considered good practice for those decisions to be made after giving consideration to all three dimensions. For example, in some building designs there may be spaces such as stairwells where the 'floor and ceiling' of that particular area is not a horizontal plane. Another example would be where a living room ceiling extends two storeys. The role of the land surveyor is to articulate these intricacies on the strata plan using a combination of plan views and cross sections to ensure that the strata lot boundaries are clearly defined in three dimensions.

In the case of stairs, it is helpful to consider whether the space above and the space below are part of the same strata lot or if the stairs are separating one strata lot from another or separating a strata lot from common property.

When a stair is wholly internal to a strata lot there is no requirement to actually show them on the strata plan. The volume of the strata lot will include the stairwell. If there is any chance that this is not clear then a cross section view should be considered to illustrate the volumetric extent of the strata lot. The challenge in these cases is how to handle the habitable area calculation if that is needed. Habitable area tends to be determined based on the area shown on each floor plan. This is usually determined at the floor of the unit which does not easily address inclined plane boundaries. Determination of habitable area is discussed in detail later in this chapter.

When the incline plane of the stairs forms a boundary, it is good practice for the land surveyor to clearly articulate where the boundary is using both plan views and cross sections. A typical cross

section can be used if applicable and each instance of a typical stair on the plan views should be referenced to the typical cross section.

A strata plan must be considered with the same care as any other plan that defines tenure. The boundaries of each strata lot must be fully measured with a degree of redundancy and at an appropriate stage of construction and recorded in field notes in order that the measurements can be defended in a court of law. The measurements must be rigorously processed with minor discrepancies balanced out prior to their representation on the strata plan.

Each land surveyor must be aware that the need to clearly and accurately define title is as great during a survey under the *Strata Property Act* as it is during a more traditional survey under other statutes.

### **3) Determining Boundaries of Limited Common Property**

The land surveyor, in consultation with the owner developer, must decide whether accessory spaces such as a deck, patio, parking space or storage area will be part of the strata lot, limited common property or common property (for a discussion as to when parking spaces might be designated as LCP, see section 7 of this chapter). Strata lots are independently owned and each strata lot has a Certificate of Title. Strata lots can be freely bought and sold without the consent of other strata lot owners. Common property is collectively owned by all the strata lot owners. There is no Certificate of Title for common property and common property cannot be sold or altered without the consent of other strata lot owners. Limited common property is common property that has been allocated to one or more strata lots for their exclusive use. Exclusive use is not the right of ownership.

By designating a deck, patio, parking space or storage area as limited common property the land surveyor is allocating a right to use the space to one or more strata lots; however the ownership of that space remains with all of the strata lot owners. A strata corporation can create rules that apply to limited common property and bylaws can be put in place that influence the use of limited common property. Rules do not apply to a strata lot. Bylaws can influence the use of a strata lot but are most applicable to the use of common and limited common property. This includes the costs to maintain LCP - which may influence the decision on whether to include parts in the Strata Lot (non habitable) or as LCP.

There is no set rule regarding whether areas such as a deck, patio, parking space or storage area should be part of a strata lot, limited common property or common property. It is quite common to make these areas limited common property since they are often areas that are exposed to the public (such as exterior decks and patios) or within parts of the strata complex that are meant for common use (such as a parkade). When these spaces are defined as limited common property there is no requirement for the extent of the limited common property to be defined by a physical object or a survey marker. The dimensions on the strata plan govern the extent of the limited common property regardless of the extent of physical occupation.

The concept that dimensions govern the extent of limited common property was confirmed by the Supreme Court of British Columbia in *Owners of Strata Plan NW2212 (Re)*, 2010 BCSC 519. When choosing whether to designate an area as limited common property or part of a strata lot take into consideration that limited common property is defined by the dimensions on the strata plan whereas

the extent of a strata lot is defined by the location of the physical walls, floor and ceilings and if no walls, floors or ceiling exist then by reference to walls, floors or ceilings or to survey markers.

Section 7-4(2) of the Survey and Plan Rules requires that the vertical extents of the LCP must be defined. If there is no vertical limit to the LCP, then there must be a statement on the plan noting this. A land surveyor should use plan notations and cross section views to define or clarify the vertical extent of limited common property with the objective of removing any ambiguity for future owners.

It is important for the land surveyor to consider how the vertical extent of limited common property designations could affect the enjoyment of other strata lots, and the strata development as a whole. Recent case law (*Chan v. Owners of Strata Plan VAS151*) has shown that height delimitator statements have been effective in deciding outcomes.

#### 4) Plan Requirements

The *Strata Property Act* has dispensed with the former *Act*'s "FIRST SHEET" and "SECOND SHEET". The first pages (more than one may be required to show all the detail) of the strata plan must show the relationship of the perimeter of the building to the property boundaries. Subsequent sheets show the details of the strata lots, limited common property, common property etc. Typically the final sheets of the strata plan show cross section views from various vantage points of each building. The criteria for preparation of the strata plan and accompanying information is set out in the *Strata Property Regulation* Part 14 and Part 7 of the Survey and Plan Rules. There are some overlapping requirements: for example, the *Strata Property Regulation* calls for the land surveyor to sign Form U, and the Rules call for the land surveyor to sign the Statement By Surveyor as prescribed by the Director of Land Titles. Care must be used to comply with all the requirements set out in the *Act*, the *Regulations* and the Survey and Plan Rules.

Strata plan approval and endorsement Forms Q, R, S, T, and U are detailed in *Regulation* Section 14.5, and accompanying document Forms V, W, X, and Y are detailed in Sections 14.6 & 14.7. Electronic filing of strata plans is now required so the actual approvals and endorsements are now part of the Application to Deposit form. Note that in most cases a corresponding statement is required on the strata plan.

#### 5) Common Property and Limited Common Property

Subject to Section 244(2) of the *Act* and Section 14.4(e) of the *Regulation*, the allocation of strata lot, limited common property or common property is left to the discretion of the land surveyor in consultation with the owner developer. There are few regulations to guide these allocations, therefore the land surveyor should make decisions that will stand the test of time, and should consider the impact of each decision on future owners and future strata councils to ensure that future owners are aware that they are part of a strata corporation and not independent owners.

When purchasers buy strata lots in a large, multi-unit building it is generally obvious to the purchasers that they are entering into a partnership with the owners of other strata lots in the building. With a little research or experience the purchasers can understand that the rules of that partnership are set out in the *Strata Property Act*, the *Strata Property Regulation*, and further refined by bylaws or resolutions that the strata corporation has adopted. For a purchaser in a

smaller development or a bare land strata, the concept of entering into a partnership is often less obvious. In consultation with the owner developer, the land surveyor can assist in clarifying the concept of that partnership by clearly noting areas of common property and limited common property. It is often advantageous to designate non-habitable areas such as decks, yards, parking and separate storage, as limited common property. This will reinforce strata title principles that those areas are owned by the strata corporation, and that the owners of the designated strata lots have certain rights for use.

## 6) Forms V and W

No matter what type of strata plan is being prepared, key underlying principles are governance and the allocation of expenses in accordance with Forms V and W of the *Regulation*. These two forms were Forms 1 & 3 in the former *Condominium Act*. The former Form 2, Interest Upon Destruction, is no longer applicable, since, upon winding up of a strata corporation, interests are apportioned in accordance with assessed values as detailed in Section 273 of the *Strata Property Act*.

A land surveyor is typically asked to prepare these forms, however it is also possible that one or both of these forms may be prepared by others. The one specific time that a land surveyor must be involved is when Unit Entitlement is allocated based on habitable area. In that case the land surveyor is required to certify that the habitable areas listed on Form V are correct.

Form V, Schedule of Unit Entitlement, is calculated in accordance with Section 246 of the *Act*. Form V has three scenarios:

- (a) Strata Plan Consisting Entirely of Residential Strata Lots
- (b) Strata Plan Consisting Entirely of Nonresidential Strata Lots
- Strata Plan Consisting of Both Residential and Nonresidential Strata Lots

Each scenario has three options:

- (i) a calculation based on areas and signed by the land surveyor
- (ii) a whole number that is the same for all strata lots
- (iii) a schedule approved by the Superintendent of Real Estate

### Another scenario for a Bare Land Strata Plan offers two options:

If the land surveyor is asked to prepare the Form V then care should be used in determining the scenario and option to be used; when habitable area is to be used in the calculation and when total area is to be used in the calculation. Decisions about how unit entitlement is to be determined are best made in consultation with the owner developer. Ultimately, the goal is to ensure that all Strata Lots have a fair and equitable share of the unit entitlement.

Form W, Schedule of Voting Rights, is calculated in accordance with Sections 247 & 248 of the *Act*. For wholly residential developments, Form W is not required. Section 247 states a schedule of voting rights *may* be established, however Forms V and W are worded such that it may be mandatory for preparation of a schedule of voting rights when the strata plan is partially or entirely non-residential. Again there are several scenarios and options, and the land surveyor, in consultation



with the owner developer, is to use care in determining when a Schedule of Voting Rights needs to be completed and in determining the criteria to use in completing the Form.

Forms V and W are not part of the strata plan. They are to be prepared on letter size paper (8½ x 11 inch) to accompany the strata plan, must be signed by the owner developer, and in certain cases must be approved by the Superintendent of Real Estate.

Section 249(3) of the *Strata Property Act* relieves the registrar from any requirement to ensure that Forms V and W are correct; therefore the land surveyor may be burdened with an increased responsibility.

## 7) Habitable Area

Habitable area is defined in Section 14.2 of the *Strata Property Regulation*, and is copied here:

*SP Regulation - 14.2 For the purposes of section 246 of the Act, "habitable area" means the area of a residential strata lot which can be lived in, but does not include patios, balconies, garages, parking stalls or storage areas other than closet space.*

Proportioning in accordance with habitable area has been accepted as a fair and equitable distribution of ownership in common property and for distribution of common expenses. It is therefore important that similar areas throughout the strata plan are treated in the same manner so that the allocation of unit entitlement is fair and equitable. Those portions of the strata lot that are, or are not, habitable should be labelled and dimensioned with separate areas.

Fenwick et al v. Parks et al (Strata Plan VIS 2014), 2004 BCSC 1132 is a case from the Supreme Court of BC that in part examined the determination of habitable area by a land surveyor. In this case the Courts placed a great deal of emphasis on whether or not an area could be occupied in a habitable manner. This concept has been recently affirmed in Barrett v. The Owners, Strata Plan LMS3265, 2016 BCSC 1477. Therefore, when determining habitable area a land surveyor is encouraged to take into account the potential future use of the space, not just the state of the space at the time it is measured.

A few guidelines for the designation of areas as habitable or non-habitable are provided here:

- Storage lockers not adjacent to habitable areas of the strata lot, parking stalls, decks, patios, and crawl spaces are usually not considered habitable area and therefore these areas are excluded for the unit entitlement calculation.
- Bay windows (which are within the parent parcel boundaries) are usually shown as part of the strata lot, but whether or not this area is habitable could depend on other factors (including whether or not the bay window extends from floor to ceiling). For example, very small bay windows (sometimes referred to as "window boxes") are often shown as non-habitable areas of the strata lot.
- Areas that are contiguous with other portions of habitable area, such as storage and workshops are often included in the unit entitlement calculation so long as the inclusion is fair and equitable throughout the strata plan. Stairs connecting floors within a strata lot and internal storage are usually considered habitable area.
- The Courts have suggested that in some instances unfinished basements and lofts, which could become habitable area in the future, are habitable area (Fenwick et al v. Parks et al (Strata



Plan VIS 2014)).

- The consideration of whether something is considered habitable or non-habitable may have an impact on how bylaws are drafted. It may be appropriate to have conversations with the lawyer about these issues.

## **8) Parking stall and garage area designation - Part of the Strata Lot (non-habitable) or LCP?**

Section 244(2) of the SPA allows for parking stalls, garage areas and storage areas to be designated as common property (and by extension LCP) or as part of the Strata Lot. Ultimately, it is up to the owner developer to decide how these areas will be designated. Land Surveyors are able to provide important information regarding such decisions. When discussing this matter with the owner developer, the land surveyor should consider the following general statements and explain the different options to their client;

- Garage areas in a townhome or a single family strata are typically designated part of the strata lot (non-habitable).
- Storage areas constructed adjacent to a garage should be considered as to their habitability using the guidelines described above (i.e. do they open onto the garage only (generally considered non-habitable) or do they open onto the strata unit (usually considered habitable)).

If the parking area is open to the strata development (i.e. a parking level in a residential tower) then it is usually designated as LCP.

Underground or surface parking stalls in multi-family strata developments are often designated as LCP for the exclusive use of a strata lot, or as part of a strata lot. Other options also exist such as designating parking areas as common property and allowing the strata corporation to later allocate parking or create lease areas for parking. Each development will have its own requirements and considerations.

## **9) Updating Unit Entitlement after the habitable area has changed (e.g. renovations have occurred).**

Section 70(4) of the SPA addresses the need for the strata lot owner to update their unit entitlement before changes are made to the habitable area.

## **10) Yard Areas**

Unlike the former *Condominium Act*, the *Strata Property Act* is silent on the matter of yard areas. Section 14.2 of the *Regulation* does not refer to yard areas, Section 14.4(e) refers to "... different parts of a building ...", and Section 244(2) of the *Act* is silent on yard areas, although some registrars have determined that the wording "... and similar areas or spaces ..." could include yard areas. If a land surveyor is asked to include yard areas as part of a non-bare land strata lot they should consult with the appropriate registrar and seek legal advice for guidance, since the *Strata Property Act* is not clear on including yard areas as part of non-bare land strata lots.

It should be noted that some municipal jurisdictions are concerned that the inclusion of yard areas as limited common property or as part of a strata lot is paramount to preparation of a bare land strata plan without approvals and have passed bylaws in an attempt to restrict strata plan developments without approval. *Swan Lake vs. Registrar (Victoria Registry, 99 1660)* established precedent in the use of limited common property ancillary to a strata lot.

## 11) Non-occupancy and Previously Occupied Buildings

The principle for the land surveyor to consider when making an assessment between new development and conversion is the role of the approving authority. The approving authority is the elected council or board of the local jurisdiction, although the elected council or board may assign the role of approving authority to others.

Section 241 of the *Strata Property Act* and section 14.5(3) of the *Regulation* details the requirement for a land surveyor to endorse a strata plan with Form S when a building is a new development and has not been previously occupied.

If the land surveyor is not satisfied that a building on the strata plan can be endorsed with Form S, then those buildings in the strata must be considered a conversion of a previously occupied building. Section 242 of the *Strata Property Act* and Section 14.5(4) of the *Regulation* detail the criteria for the approving authority to consider when requested to endorse a strata plan with Form T for conversion of a previously occupied building. These sections have placed the land surveyor in the position of deciding if each building in the development is new or if it is a conversion. Therefore, if any portion of a previously occupied building forms part of the strata plan, it is important for the land surveyor to recognize the previous occupation and co-operate with the approving authority. In 1994 the Corporation, now the Association, issued a practice advisory to assist land surveyors in making this distinction, and Section 14.1 of the *Regulation* provides a definition of “**previously occupied**”. In summary, if any portion of a building that has been previously occupied (other than as a display lot) is part of a strata plan, that building is to be considered a conversion, regardless of the extent of renovation.

The time limit for Form S and Form T is 180 days. In other words for the Form S to be valid, the strata plan must be submitted to the Land Title Office within 180 calendar days of the date on the Form S.

A question arises when there is more than one building on a lot that is the subject of a strata plan and some buildings have been previously occupied and others have not. This question came before the Courts in 2003 in a case known as *Burton et al v. Harris et al*, 2003 BCSC 523. The Honourable Mr. Justice Truscott ruled that in cases where there are multiple buildings and where some have been previously occupied and others are new construction the strata plan should include both a Form S and a Form T certification.

If a land surveyor has any doubts about whether a building is to be considered new construction or a conversion it is recommended that they review the matter with the local government and consult other land surveyors before making a final decision.

## 12) Strata Plans of Air Space Parcels

As land becomes more valuable, development can become more complicated. This has led to developments that combine many forms of tenure such as strata plans within air space parcels. For the most part, all of the same criteria apply to a strata plan within an air space parcel; however, there are a few special considerations. Depending on the air space parcel configuration, it is unlikely that the entire building or structure will be wholly contained within the air space parcel. It is important that the land surveyor ensure the necessary easements are in place to allow for any encroachments, the supporting structures and services so that the land surveyor can comfortably sign Form U.

When preparing a strata plan of an air space parcel or a strata plan that is adjacent to an air space parcel the land surveyor is encouraged to prepare the strata plan in a manner that clearly shows the relationship of the strata plan to the air space parcel boundaries. This may be accomplished in a variety of ways and will depend on the particular circumstances. The land surveyor may wish to consider the use of an appropriate number of cross section views to demonstrate the relationship to the air space parcel in three dimensions. The location of the air space parcel relative to strata lot boundaries may also be shown on plan views on each floor.

Since a strata plan must be based on registered titles that comply with Section 240 of the *Strata Property Act*, a strata plan cannot extend across both a normal fee simple parcel and an air space parcel. An example would be a strata lot where a bay window encroaches onto a road. A solution could include closing a portion of road and creating title to an air space parcel to contain the encroachment. While this will allow the registration of an easement over the air space parcel, it will not allow the creation of a strata lot which contains the bay window because the strata lot and the air space parcel cannot be consolidated into a single parcel as required by Section 240.

There are also times when a land surveyor will want to prepare a strata plan over the remainder of the parent parcel where the only exclusion from the parent parcel is an air space parcel. As noted above Section 240 of the *Strata Property Act* sets out the criteria for a parcel that is the subject of a strata plan and a remainder parcel does not fit that criteria. The Land Title Office may consider accepting a strata plan in these circumstances. It is recommended that the land surveyor discuss the proposed strata plan with the appropriate Deputy Registrar prior to commencing work on the strata plan.

## 13) Bare Land Strata Plans

Bare Land Strata Plans combine fee simple subdivision and strata concepts as defined by the *Strata Property Act* to enable the strata lot owners to share common property and common facilities.

Bare land strata lot boundary definition is usually by conventional *Land Title Act* monumentation, and each owner owns the “land” between the survey monuments together with a proportionate share of the common property.

Section 243 of the *Strata Property Act* requires a Bare Land Strata Plan to be approved by the approving officer. Section 18 of the *Bare Land Strata Regulations* provides a form for this approval block.

Section 15 of the *Bare Land Strata Regulations* provides the authority for the approving officer to require easements for services on bare land strata lots.

#### **14) Leasehold Strata Plans**

A leasehold strata plan may be prepared on a parcel of land which is owned by the Crown, the federal Crown, a municipality, a regional district, a Nisga'a Village or the Nisga'a Nation, a treaty first nation, or another public authority, and to which a ground lease is registered in the name of the owner developer. Minor format changes may be required on a leasehold strata plan, and it is therefore advisable to liaise with the Land Title Office.

### **Part 2 - Phased Strata Plans**

Developments under the *Strata Property Act* may be phased, that is, a single development may be developed in stages over time such that the completed development will have one strata plan and one Strata Corporation. Phased strata plans may be used for conventional and bare land strata developments.

Form P (Form E in the former Act) details the proposed schedule for the phased development. It must accompany land title registration of the first phase of the strata plan. Since each phase must be approved by the approving officer, Form S, endorsement of non-occupancy is not required.

The approving officer, using Form Q, approves each phase of a phased strata plan, since each phase is a subdivision of land. The remainder of the parent parcel remains with title under the Land Title Act and may be transferred; therefore the approving officer will usually require provision for access and servicing of the remainder of the parent parcel. It is prudent to receive written confirmation from the approving officer should provisions for access and servicing not be required.

Some jurisdictions may require that setbacks be maintained to phase boundaries because there is the potential for the development not to proceed, and the last phase boundary may become a permanent lot boundary.

Upon deposit of Phase 1 of the strata plan, title to the strata lots in Phase 1 are created and the strata corporation is formed. Subsequent phases of the strata plan are added to the previously deposited phases of the strata plan and are excepted from the title of the parent parcel. Land Surveyors working on subsequent phases, who did not prepare the Phase 1 plan, are advised to examine the first phase plan certification page to ensure the commission number of the member who pulled the plan number is entered into the new Survey Plan Certification document.

For the most part, when proceeding with a phased strata plan, all the principles of a normal strata plan will apply, however, there will be a few additional considerations for the land surveyor. Each phase boundary will form a new property line for at least some period of time, and separate title exists for the remainder of the parent parcel. Since the phase boundary must be treated as any other property boundary, the land surveyor should consider carefully the ramifications the location of the phase boundary may have for the ongoing development. Other than by using an air space parcel, a development can only be phased with a side boundary (the limits of which consist of a vertical plane). This means that the land surveyor needs to be vigilant in considering encroachments caused by such things as servicing,

overhangs or underground parking. Any encroachments must be covered by a registered instrument such as an easement or lease. By default, everything in a strata plan that is not designated as a part of a strata lot is considered common property. Therefore, if part of a structure containing a strata lot in a later phase encroaches onto a prior phase, the later phase strata plan will not be able to convert previously designated common property into a strata lot without considerable difficulty.

Land surveyors are encouraged to become involved in an advisory capacity with the owner developer and the local approving authorities at an early stage of any proposed development. Care must be taken to ensure that the required building setbacks are maintained and that required rights of way and easements are created.

Each Land Title Office and approving officer may have different criteria for approval and depositing of phased strata plans. It shall be considered good practice to consult with those agencies to clarify procedures to be utilized.

### **Part 3 – Proposed Strata Plans To Accompany A Disclosure Statement**

The owner/developer of a strata development will commonly request that a land surveyor prepare a proposed strata plan for attachment to a disclosure statement prior to completion and registration of the final strata plan. That disclosure statement is filed with the Superintendent of Real Estate and forms the basis for pre-sale of units in the development. Proposed strata plans for a building strata are usually based on architectural drawings and typically show each proposed strata lot with a strata lot number, floor areas and limited common property. It can be helpful to the owner/developer if these plans are prepared so that when reduced to a letter sized sheet they are still legible and can be included with the rest of the disclosure statement documents.

The office of the Superintendent of Real Estate is responsible for establishing policies under the *Real Estate Development Marketing Act* regarding comparison of the unit entitlement expressed in Form V on the final strata plan to the unit entitlement filed with the disclosure statement. Currently there is no specific policy in place. This puts the developer at risk since a purchaser could claim that any variation in the area of a strata lot is a material change. To reduce this risk many Disclosure Statements include a clause that sets out that the area of a strata lot as shown in the Disclosure Statement may vary by up to x% without being considered to be a material change and without any adjustment to the purchase price. 3, 4 or 5% are fairly common values for this clause.

When an amendment to the disclosure statement is filed, all prospective purchasers who have placed monies in trust to secure the pre-sale agreement are notified of the amendment. At that time, they may have the option of cancelling their pre-sale agreement. The cancellation of pre-sale agreements could have considerable financial implications for the owner/developer.

Proposed strata plans are sometimes misused and interpreted to be a registered version of the strata plan. In part, this may be due to many proposed strata plans having the appearance of a registered strata plan, even including the EPS number at times. A copy of the proposed strata plan accompanies the disclosure statement, and it is likely that this version of the plan will remain with the strata lot owners in the long term. The proposed strata plan may be more accessible than the registered strata plan. Land

surveyors must prepare proposed strata plans in a manner to prevent confusion and prevent possible misuse of the proposed strata plan. By labeling the heading “Proposed” instead of “Preliminary” it avoids any possible misinterpretation that the proposed strata plan is a draft of the final strata plan.

Land surveyors are advised to take considerable care when preparing a proposed strata plan to accompany a disclosure statement. A form of preliminary title is being created and the pre-sale agreements are entered into based on the floor areas, schedules and information shown on the proposed strata plans. In the event that pre-sale agreements are cancelled due to errors on the proposed strata plans, the land surveyor may be in a position of liability.

When preparing proposed strata plans, it is standard practice for the land surveyor to:

- Use the latest issue of architectural plans, note the date when the plans are received, and keep the plans in office records;
- Maintain detailed notes on revisions to architectural drawings and instructions from the owner developer or the authorized representative;
- Discuss the options for the location of strata lot boundaries and allocations of limited common property with the owner developer or the authorized representative;
- Have the owner developer or the authorized representative initial any agreed upon plan amendments;
- Ensure that the plan heading references “Proposed strata plan”, (and not “Preliminary strata plan”). The Plan should also note, that it is a plan to accompany a disclosure statement;
- Ensure that every sheet of the proposed strata plan is clearly labeled proposed;
- Never include the EPS number on the proposed strata plan;
- Include a disclaimer on each page that states “This proposed strata plan is not the final plan which can be obtained from the Land Title Office upon filing.”;
- Place a notation on the proposed strata plans stating the architect’s name, revision number and date;
- Use care in extracting the correct boundaries of the proposed strata lots from the plans or data files;
- Number the strata lots in the same manner as will show on the final strata plan in accordance with the *Strata Property Act* and Strata Property Regulation.

## Part 4- Strata Plan Amendments

A strata plan may be amended for several purposes, such as;

- 1) To add or remove an LCP designation to or from a strata plan pursuant to section 257 of the *Strata Property Act*,
- 2) To add to, consolidate or divide a strata lot pursuant to s. 259 of the *Strata Property Act*,
- 3) To make land held by the Strata Corporation (i.e. fee simple lands shown on a *Land Title Act* plan) into a new lot pursuant to s. 262 of the *Strata Property Act*,
- 4) To add a strata lot to Common Property pursuant to s. 263 of the *Strata Property Act*,
- 5) To make Common Property into land held by the Strata Corporation pursuant to s. 265 of the *Strata Property Act*,
- 6) To add land held by Strata Corporation to the Common Property pursuant to s. 266 of the *Strata Property Act*.

Strata Plan amendments can be complex, and the relevant *Strata Property Act* section should be carefully reviewed prior to undertaking a project. Other useful resources include;

- The Land Title Practice manual which contains Strata Property Act information, including a section on Strata Plan amendments
- The ABCLS sample plan page which includes several sample examples of strata plan Amendments
- BC Strata Property Practice Manual (CLE)
- The Land Title Office, the Registrar
- McCarthy Tetrault's annotated SPA

There are procedural challenges between the way that the Strata Property Act describes the requirements of an amendment and the way in which the Land Title register works. Consequently, the LTSA strives to find ways that satisfy both the requirements of the Strata Property Act and the requirements of managing the Land Title register.

Additionally, amendments to Strata Plans that were prepared under the *Condominium Act* can add some challenges. Many of those plans are done in imperial measurements, and many of the earliest Strata Plans do not have dimensions, only Strata Lot areas in square feet. In order for the amendment to be registered in the LTO, the changed parts (within the bold outline) as well as the notes currently required under the Strata Property Act, Regulations, and various rules need to meet current practice standards. The plan needs to be prepared in metric (LTO advises to include imperial measurements in brackets), the definitions of the Strata Lot boundaries need to be indicated, and every sheet that includes a part of the amended Strata Lot(s) needs to be updated to current standards.

Land Surveyors amending Strata Plans prepared under the *Condominium Act* are required to place the commission number of the member who prepared the original plan into the Survey Plan Certification document.

Common Property may have been changed with renovations to the underground rooms, lobby areas, or shared common facilities. At present there does not seem to be a way to amend the labeling of Common Property and LTO examiners will require that the labeling remain the same as on the registered version of the Strata Plan.

If there is an error found on the original Strata Plan there is a mechanism to make the correction pursuant to Section 14.12 of the *Strata Property Act* Regulations accompanied by a Statutory Declaration.

Strata Plans prepared under the *Condominium Act* also included Forms 1 (Schedule of Unit Entitlement), 2 (Schedule of Interest Upon Destruction), and 3 (Schedule of Voting Rights). These Forms must be converted into Form V, Form Z.1, and Form W respectively. Unit Entitlement and Voting Rights are simple conversions to the current Forms with the same rules, however, Interest Upon Destruction is a proportionate value for each Strata Lot that considers the relative values of each Strata Lot so there are many factors (view, size, height above ground, etc.) that make this somewhat subjective and outside a survey expertise. Changes in Interest Upon Destruction for subdivided or additional converted Strata Lots may require some consultation with the developer, lawyer, and real estate professionals.



Lastly, similar to other Strata Plan amendments, if the first sheet defining the parent parcel boundaries is not affected by the survey then you will need to apply for Parcel Map BC exemptions through the normal channels.

A sample of a registered Strata Plan amendment of a Strata Plan done in imperial with no distances can be found on Strata Plan VR267 (listed as VAS267) and a Strata Plan correction can be found on Strata Plan VR2582 (VAS2582).

To amend a Strata Plan, a BC land surveyor creates a new plan but the format of the new plan appears to be a set of sheets that amend the existing strata plan as needed to achieve the amendment. As a general approach, the Registrar will require a separate plan (set of amending sheets) for each step of an amendment process. Each new plan (set of amending sheets) will require a plan heading that is appropriate for the specific amendment. For example, the plan heading on each sheet within the new plan may read 'Subdivision Plan of Strata Lots... Pursuant to Section 259 of the Strata Property Act'.

Since the sheets within this new plan will be treated by the Registrar as an amendment to the existing strata plan the original strata plan number is used (in most cases). The sheets in the new plan will be considered to be amendments to the existing strata plan sheets and need to be identified as such. For example if the new plan amends sheets 1, 3 and 4 of the original plan and these are the first amendments to those sheets then the new plan sheets will be labelled Sheet 1A, Sheet 3A and Sheet 4A. If there are already amendments in the Land Title register for any of the sheets that are being amended by the new plan then the new plan will use the next available letter. The total sheet number should also be amended to reflect the new total number of sheets that will be in the plan after the amendment. When the amended sheet is submitted for registration to the Land Title Office, the Registrar makes a notation on the sheet which is being replaced, (which remains in the strata plan), directing the plan user to the new sheet.

Each new plan (set of amending sheets) is considered to be a separate plan under the *Strata Property Act* which results in each plan requiring a separate certification page (SPC), a separate application (DSPL), separate supporting documentation such as a Form V and a Form E (certificate confirming that the necessary resolutions were passed) and separate filing fees.

The Registrar has advised that their expectation/requirement is that each amending sheet within a new plan set is a complete representation of the most current version of those sheets within the Land Title Register. The portion of the sheet that is being amended should be identified with a bold outline and, depending on the nature of the amendment, the BC land surveyor will have completed sufficient field measurements to have re-established the boundaries of the strata lots and common property within the vicinity of the amendment. In many cases, this will mean that many of the lines, labels and dimensions shown on the amending sheet are derived from the records of the Land Title Office, not as a result of measurements by the land surveyor. It is recommended that the amending sheets are prepared in a manner that distinguishes between lines and dimensions that the land surveyor has copied from the previous sheet and those that the land surveyor has determined as part of the amendment.

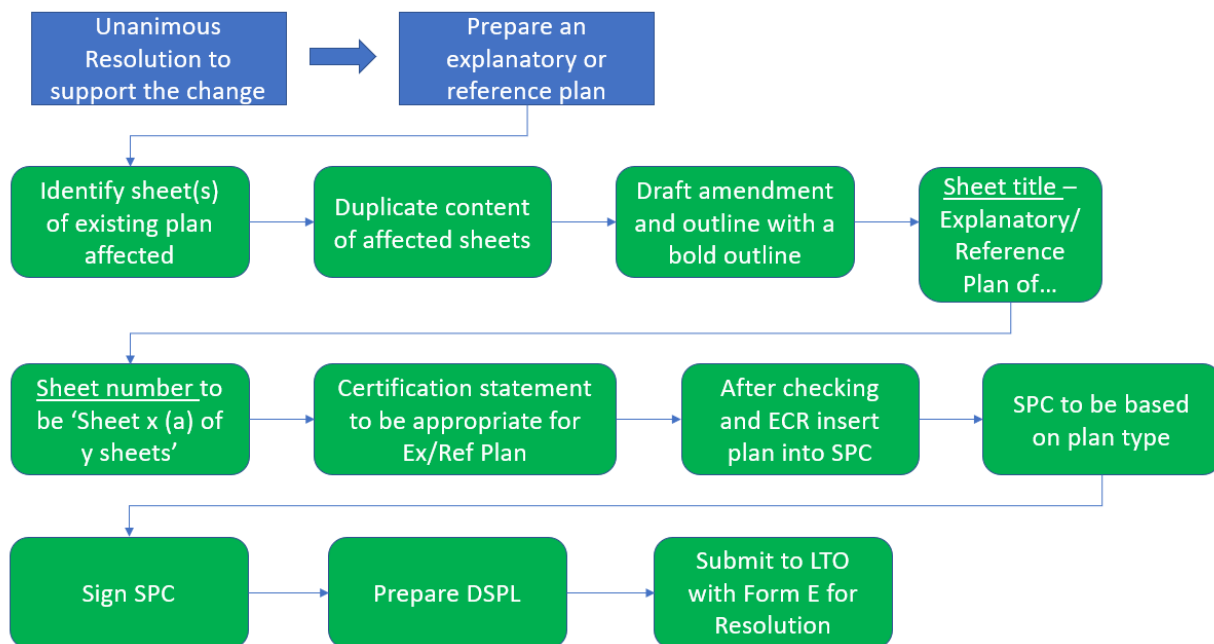
Most strata plan amendments require that the Strata Corporation pass a resolution approving the amendment by vote at an annual or special general meeting. The client should be aware of this requirement at an early stage of the project. The details of each Resolution (vote) are submitted with the amending plan using Form E.

Both Bare Land Strata Plans and Building Strata Plans may be amended.

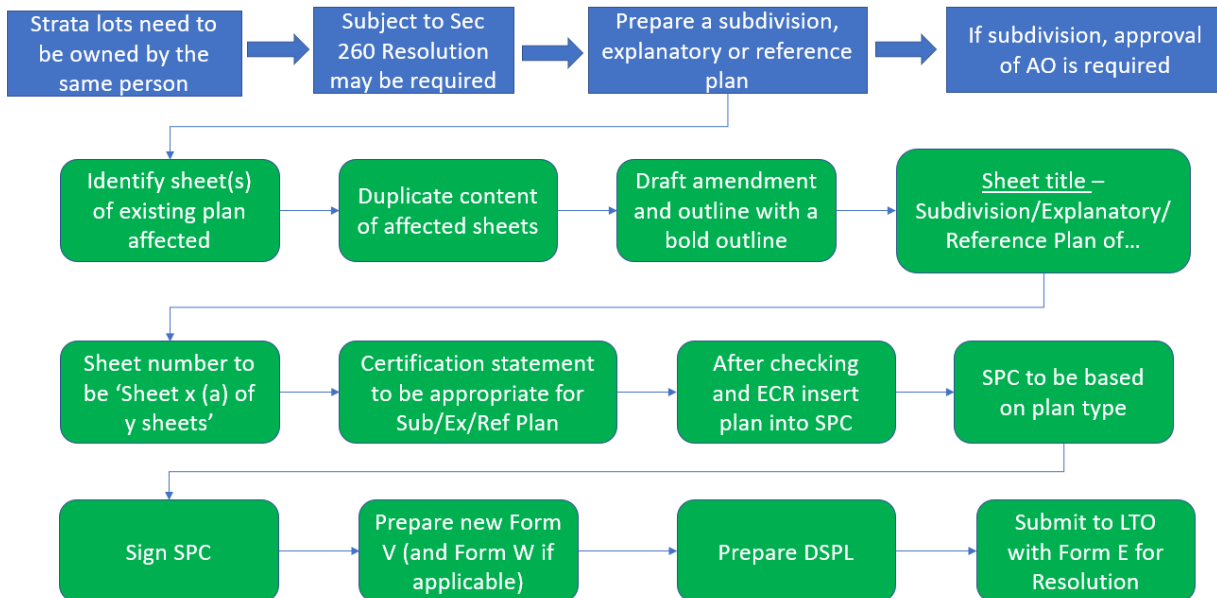
Some Strata Plan amendments (e.g. a subdivision of a Bare Land Strata Lot pursuant to section 259 Strata Property Act) will require the approval of the Approving Officer.

To assist with understanding the flow of each type of amendment the following flow charts have been provided.

#### Section 257 – changing the designation of Limited Common Property

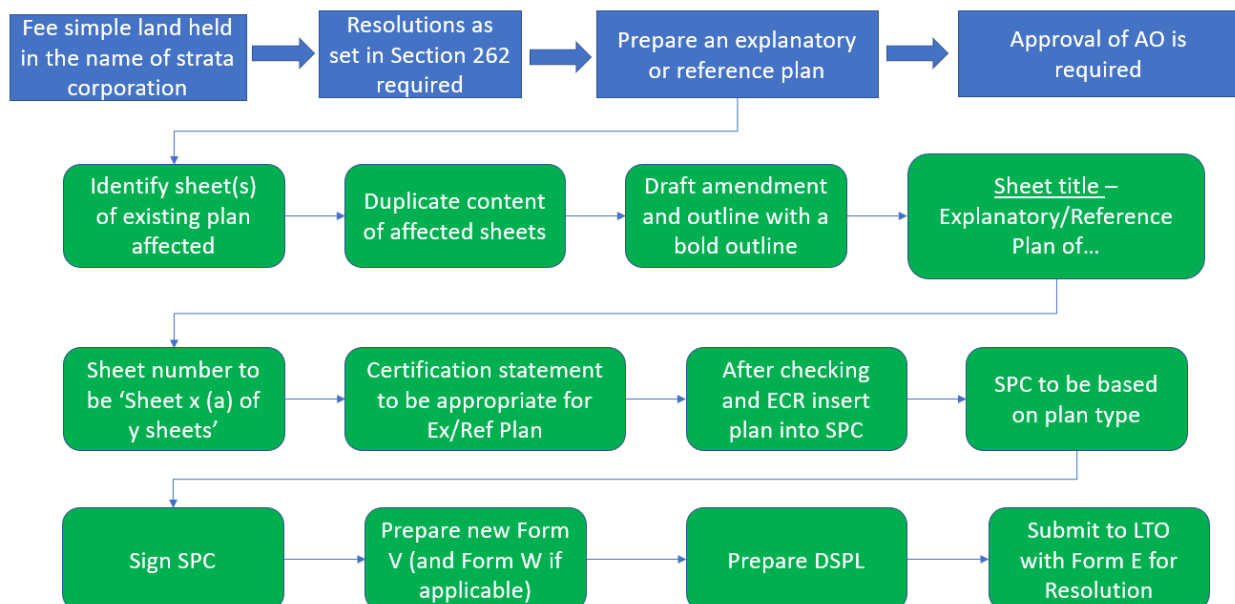


### Section 259 – Amending strata plan to add to, consolidate or divide a strata lot



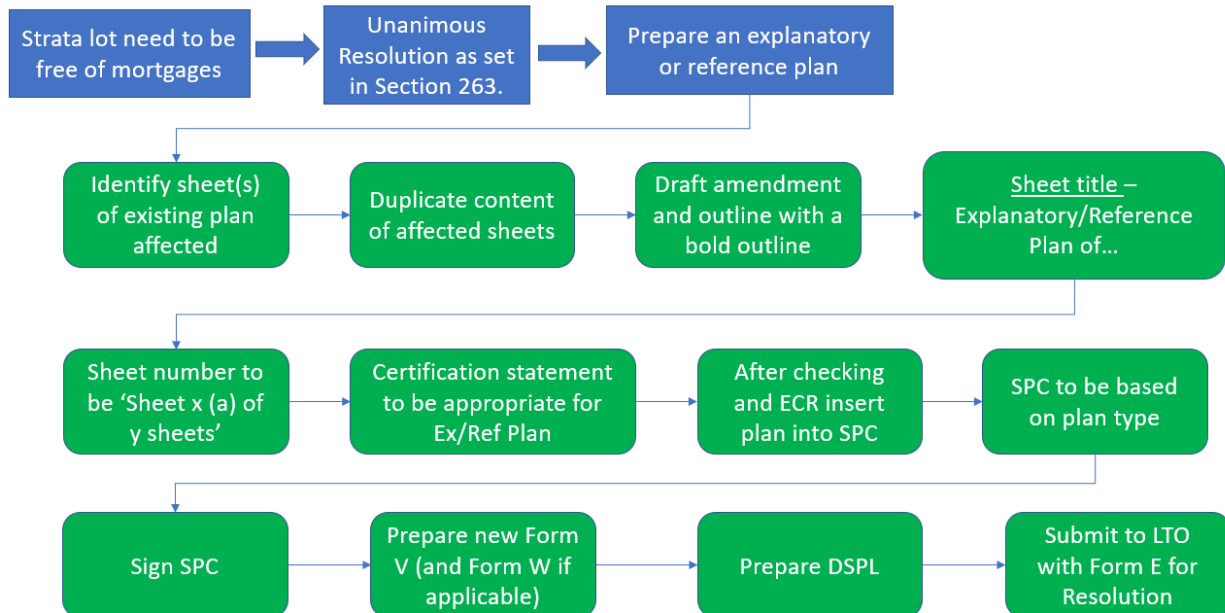
Note: if amending a Condominium Act Plan a Form Z.1 is also needed

### Section 262 – Amending strata plan to make land held by strata corporation into new strata lot.



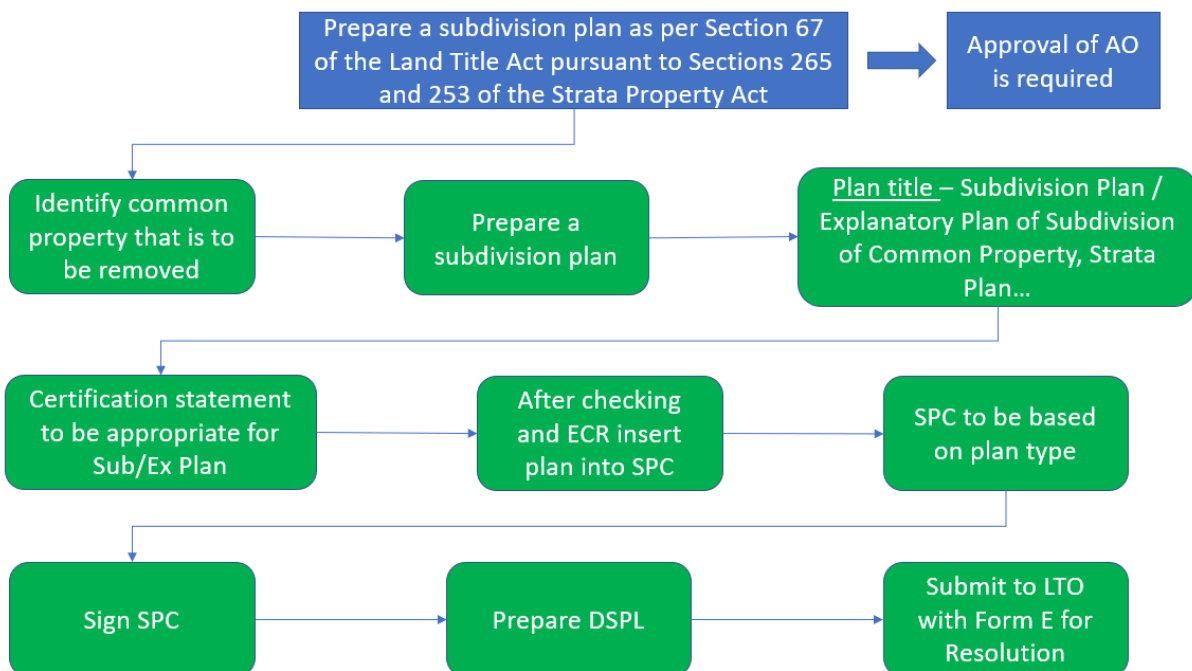
Note: if amending a Condominium Act Plan a Form Z.1 is also needed

### Section 263 – Amending strata plan to add a strata lot to common property



Note: if amending a Condominium Act Plan a Form Z.1 is also needed

### Section 265 – Amending strata plan to make common property into land held by the strata corporation



Note: when CP is part of a building additional statements are needed to identify the floor of the building



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