

**DATE:** June 7, 2018**FILE:** 3350-20 / CP 1CV 18**TO:** Chair and Directors  
Electoral Areas Service Committee**FROM:** Russell Dyson  
Chief Administrative OfficerSupported by Russell Dyson  
Chief Administrative Officer**R. Dyson****RE: Official Community Plan Amendment, Local Government Act Section 514****Purpose**

To seek board approval on the Official Community Plan (OCP) amendment (Appendix A) to remove Section 44.(6) of the OCP that requires parcels proposed for subdivision, in accordance with Section 514 (subdivision to provide residence for a relative) of the *Local Government Act* (RSBC, 2015, c. 1) (LGA), be two times the size of the minimum parcel size required in the zoning.

**Recommendation from the Chief Administrative Officer:**

THAT proposed Bylaw No. 514 being the “Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment 3”, which removes Section 44.(6) of the Official Community Plan that requires parcels proposed for subdivision in accordance with Section 514 of the *Local Government Act* (RSBC, 2015, c. 1) be two times the size of the minimum parcel size required in the zoning, be given first and second reading;

AND THAT the Comox Valley Regional District Board endorse the agency referral list as outlined in Appendix B, of staff report dated June 7, 2018, and direct staff to start the external agency referral process as part of a proposed amendment of Bylaw No. 514;

AND FINALLY THAT Comox Valley Regional District staff consult with First Nations in accordance with the referrals management program dated September 25, 2012.

**Executive Summary**

- LGA Section 514 permits subdivision of a parcel that does not meet the minimum parcel size requirement of a zoning bylaw if the subdivision will provide a residence for a relative. The LGA enables local governments to specify a minimum parcel size for parcels created pursuant to Section 514.
- Currently, the OCP requires parcels in the Rural Settlement Areas (RSA) proposed for subdivision, in accordance with Section 514 of the LGA, be two times the size of the minimum parcel size required in the zoning.
- This policy has been in place since adoption of the OCP in November 2014 and is intended to minimize fragmentation of rural lots. The Comox Valley Regional District has received three applications regarding proposed Section 514 subdivisions. One application has been processed and two are in-stream.
- On October 25, 2016, the board passed a resolution directing staff to review the removal of parcel size requirement from the OCP for all properties in the RSAs on the basis that it is not supportive of the enabling legislation.
- Section 503(3)(i) of the Zoning Bylaw also limits Section 514 of the LGA by requiring the size of the parent lot to be two times the minimum lot area required in the applicable zone.

Property owners need to apply for a rezoning in order to subdivide under Section 514 of the LGA.

- Staff recommends removal of the parcel size requirement in the OCP, as the rezoning tool adequately addresses the interest of preventing fragmentation but enabling subdivision for relatives in a context sensitive specific manner.

Prepared by:

Concurrence:

**R. Holme**

**A. Mullaly**

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Robyn Holme, MCIP, RPP  
Long Range Planner

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Alana Mullaly, M.Pl., MCIP, RPP  
Acting General Manager of Planning and  
Development Services Branch

### Stakeholder Distribution (Upon Agenda Publication)

None	✓
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### Background/Current Situation

LGA Section 514 permits subdivision of a parcel that does not meet the minimum parcel size requirement of a zoning bylaw if the subdivision will provide a residence for a relative. This section also allows a local government to establish minimum parcel sizes for that subdivision. Currently, the OCP has a policy that requires parcels proposed for subdivision, pursuant to Section 514 of the LGA, be two times the size of the minimum parcel size within the RSAs. The previous OCP bylaw (being Bylaw No. 2042) did not contain a similar policy. Rather, the policy was introduced as part of the Regional Growth Strategy (RGS) implementation work. The provision in the Zoning Bylaw was also contained in the previous Zoning Bylaw (Bylaw No. 869, being the “Comox Valley Zoning Bylaw, 1986”) and is common in contemporary rural regional district zoning bylaws.

The “two times the parcel size” provision applies to lands outside of the Agricultural Land Reserve (ALR) and is intended to preclude small lot subdivisions in the rural areas. In the ALR, the “two times parcel size” does not apply and has historically been used to enable retiring farmers to remain in proximity to the lands that they have farmed (i.e. “home site severance”).

Since the adoption of the OCP, staff have received three applications for proposed subdivisions under Section 514. One application has been reviewed and processed and two applications are presently in-stream. The subdivision proposals required the owners to apply for a site-specific zoning amendment to obtain relief from the zoning bylaw provision. On October 25, 2016, instead of requiring an application for an OCP amendment, the board passed a resolution directing staff to review the removal of the policy on the basis that it is not supportive of the enabling legislation.

### Official Community Plan Bylaw No. 337

The “two times the parcel size” provision applies to the designated RSA. Lands in the RSA are intended to support low density rural residential living, including agriculture and home based businesses. New development within the RSA should maintain rural character and support a functioning working landscape. Minimum parcel size within the RSA ranges between 20 and 4 hectares so as to ensure long-term self-sufficiency (i.e. on-site water and sewer service). In respect to parcels created through Section 514, the OCP states:

*“44.(6) Permit subdivision of land in the rural settlement area for a residence for a relative under Section 946 [now Section 514] of the Local Government Act only if the parent lot is at least two times the minimum lot size required within the applicable zone in the zoning bylaw.”*

The intent of the OCP policy was to ensure compliance with the density and servicing policies of the RGS. The provision was added to the OCP in 2014 in an effort to support the minimum parcel size for subdivision in the RGS.

#### Zoning Bylaw No. 2781

As noted previously, Section 514 permits subdivision of a parcel that does not meet the minimum parcel size requirements of a zoning bylaw if the subdivision will provide a residence for a relative. The section also allows a local government to establish minimum parcel sizes for subdivisions that provide a residence for a relative.

Pursuant to Section 514, the Zoning Bylaw states:

*“503(3)(i) No subdivision shall be permitted pursuant to Section 946 [ now Section 514], of the Local Government Act on lands not within the Agricultural Land Reserve, unless the parent lot is at least two times the minimum lot area required within the zone.”*

As such, a parcel proposed for subdivision that does not meet the minimum parcel size, an application to rezone would be required to relieve the proposal from the regulation.

Staff recommend the removal of OCP Section 44.(6) “two times the size” policy for all properties within the RSAs, as it imposes an unnecessary barrier. Property owners applying to subdivide parcels under LGA Section 514 would still require a zoning bylaw amendment in order to obtain relief from the zoning bylaw provision. But instead of requiring an additional OCP amendment, the rezoning tool alone provides a more flexible and site specific approach to the enabling legislation, while still achieving the intent of the RGS.

#### **Policy Analysis**

Section 514 of the LGA enables an approving officer to approve subdivision of a parcel of land that would otherwise be prevented from subdivision by a provision of a bylaw or regulation that establishes a minimum parcel size. The subdivided parcel is to be used to provide a residence for a relative. Further, the section allows a local government to establish a minimum parcel size for subdivision for a residence for a relative.

#### **Options**

1. Give the OCP amendment first and second reading and direct staff to proceed with referrals to First Nations and external agencies outlined in Appendix B.
2. Direct staff to further review Section 44.(6) of the OCP requiring that parcels proposed for subdivision, pursuant to Section 514 of the LGA, be two times the size of the minimum parcel size within the zone and return to the Electoral Areas Services Committee for additional direction.

Staff recommends Option 1, as the proposed OCP amendment responds to previous board direction and recommends removal of the policy on the basis that it is not supportive of the enabling legislation.

#### **Financial Factors**

The bylaw process for this OCP amendment is an internal bylaw process, so funds from the planning service will be used for the statutory public hearing, newspaper advertisements and other expenses.

**Legal Factors**

The recommendations contained within this report have been prepared in accordance with the LGA.

**Regional Growth Strategy Implications**

The RGS does not specifically contemplate the enabling of Section 514 legislation of the LGA. The LGA states that all bylaws and services enacted following adoption of an RGS must be consistent with the RGS.

Staff's recommended removal of the OCP policy is in accordance with this requirement.

**Intergovernmental Factors**

Appendix B contains a list of organizations and authorities for external referral. The OCP amendment will also be referred to First Nations in accordance with the referrals management program.

**Interdepartmental Involvement**

There are no interdepartmental factors related to staff's recommendations.

**Citizen/Public Relations**

Staff will forward the proposed OCP amendment to the Electoral Area A, B and C Advisory Planning Commissions for review and comment. Statutory notice requirements (*i.e.*, public hearing) will be addressed as the amendment moves through the process.

Attachments: Appendix A – “Proposed Bylaw No. 514”

Appendix B – “External Agency and First Nation Referral List”

Bylaw No. 514  
Comox Valley Regional District

## STATUS

Title: Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment No. 3

Applicant: Comox Valley Regional District

Electoral Area: Electoral Area A (Baynes Sound excluding Denman and Hornby Islands), Electoral Area B (Lazo North), Electoral Area C (Puntledge – Black Creek)

File No.: CP 1CV 18

Purpose: To amend the Rural Comox Valley Official Community Plan

Participants: All Electoral Areas



Application Received:	<b>Date:</b> N/A
Electoral Areas Services Committee:	<b>Date:</b> <b>Recommendation:</b>
Comox Valley Regional District Board:	<b>Date:</b> <b>Decision:</b>
Public Hearing:	<b>Date:</b>
Comox Valley Regional District Board:	<b>Date:</b> <b>Decision:</b>
Comox Valley Regional District Board:	<b>Date:</b> <b>Decision:</b>

**Comox Valley Regional District**  
**Bylaw No. 514**

**A Bylaw to amend the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014"**

**WHEREAS** the board has pursuant to the provisions of Section 477 of the *Local Government Act* (RSBC, 2015, c. 1), in preparing the Official Community Plan, and after first reading, the board has given consideration, in sequence, to its most recent Financial Plan, the Agricultural Land Commission Act, and Waste Management Plan to ensure consistency between them and the Official Community Plan;

**AND WHEREAS** pursuant to the provision of Section 473 and Section 477 (3) of the *Local Government Act*, the board considered consultation matters and held a public hearing on the proposed official community plan amendment;

**NOW THEREFORE** the board of the Comox Valley Regional District in open meeting assembled, enacts the following amendments to the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014:

**Section One Text Amendment**

- 1) Bylaw No. 337, being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014," is hereby amended as set out in Schedule A attached to and forming part of this Bylaw.

**Section Two Title**

- 1) This Bylaw may be cited as the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment No. 3."

<b>Read a first time this</b>	<b>day of</b>	<b>2018.</b>
<b>Read a second time this</b>	<b>day of</b>	<b>2018.</b>
<b>Public hearing held this</b>	<b>day of</b>	<b>2018.</b>
<b>Read a third time this</b>	<b>day of</b>	<b>2018.</b>

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 514, being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment No. 3", as read a third time by the board of the Comox Valley Regional District on the XX day of XX 2018.

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Corporate Legislative Officer

<b>Adopted this</b>	<b>day of</b>	<b>2018.</b>
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Chair

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Corporate Legislative Officer

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 514, being the "Rural Comox Valley Official Community Plan Bylaw No. 337, 2014, Amendment No. 3", as adopted by the board of the Comox Valley Regional District on the XX day of XX 2018.

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Corporate Legislative Officer

## Schedule A

### Section One      Text Amendment

1.      Part 3 Land Use Section 44.(6), “Rural Settlement Areas – Policies (General)” be amended by deleting the existing text:

#### 44.      **Rural Settlement Areas – Policies (General)**

“(6)      *Permit subdivision of land in the rural settlement area for a residence for a relative under Section 946 of the Local Government Act only if the parent lot is at least two times the minimum lot size required within the applicable zone in the zoning bylaw.*”



Appendix B  
**AGENCY AND FIRST NATIONS REFERRAL LIST**

**First Nations**

<input checked="" type="checkbox"/>	K'ómoks First Nation	<input checked="" type="checkbox"/>	Wei Wai Kum First Nation / Kwiakah First Nation of the Kwiakah Treaty Society
<input checked="" type="checkbox"/>	We Wai Kai Nation of the Laich-Kwil-Tach Treaty Society	<input checked="" type="checkbox"/>	Homalco Indian Band

**Provincial Ministries and Agencies**

<input type="checkbox"/>	Agricultural Land Commission	<input type="checkbox"/>	Ministry of Community, Sport and Cultural Development
<input type="checkbox"/>	BC Assessment	<input type="checkbox"/>	Ministry of Forests, Lands and Natural Resource Operations
<input type="checkbox"/>	BC Parks	<input type="checkbox"/>	Ministry of Energy and Mines
<input type="checkbox"/>	BC Transit	<input type="checkbox"/>	Ministry of Environment
<input type="checkbox"/>	Ministry of Aboriginal Relations and Reconciliation	<input type="checkbox"/>	Ministry of Jobs, Tourism and Skills Training
<input type="checkbox"/>	Ministry of Agriculture	<input type="checkbox"/>	Ministry of Transportation and Infrastructure
		<input type="checkbox"/>	BC Wildfire Services

**Other**

<input type="checkbox"/>	Agricultural Advisory Planning Commission	<input type="checkbox"/>	Comox Valley Economic Development Society
<input checked="" type="checkbox"/>	Electoral Area 'A' Advisory Planning Commission Baynes Sound – Denman/Hornby Islands	<input type="checkbox"/>	Vancouver Island Health Authority (Environmental Health)
<input checked="" type="checkbox"/>	Electoral Area 'B' Advisory Planning Commission Lazo North	<input type="checkbox"/>	School District #71 (Comox Valley)
<input checked="" type="checkbox"/>	Electoral Area 'C' Advisory Planning Commission Puntledge – Black Creek		