



REPORT TO COMMITTEE OF THE WHOLE

Council Meeting: April 16, 2024

500 Matterson Drive, Ucluelet, BC V0R 3A0

FROM: BRUCE GREIG, DIRECTOR OF COMMUNITY PLANNING

FILE NO: 6630-27

SUBJECT: SHORT-TERM RENTAL ACCOMMODATIONS ACT:
LOSS OF LEGAL NON-CONFORMING STATUS FOR EXISTING B&B'S

REPORT NO: 24-33

SUMMARY OF DESIRED OUTCOME:

That the Committee of the Whole discuss and provide Staff with direction on the desired outcome of potential bylaw changes to address the housing, growth, and tourist accommodation issues discussed in this report (items numbered below). Most timely, Committee discussion on deferring the impact of the provincial *Short-Term Rental Accommodations Act* on existing but non-conforming Bed & Breakfast businesses would provide clarity for staff and more certainty to those affected business owners / homeowners.

BACKGROUND AND DISCUSSION:

In the fall of 2023, the Province adopted Bill 35 - 2023 [Short-Term Rental Accommodations Act](#) (the "*STRA Act*"). The stated goals of the *STRA Act* are "to strengthen tools to support local government enforcement of short-term rental bylaws, return short-term rentals to the long-term housing market, and establish a provincial role in the regulation of short-term rentals".

A. Principal residence:

At its meeting on February 15, 2024, Council received an initial [report on the STRA Act](#) and discussed the "opt in" options relating to the principal residency requirement - resolving to not opt in at this time.

In September of 2022, with the adoption of *Zoning Amendment Bylaw No. 1310*, and the accompanying *Business Regulation & Licensing Amendment Bylaw No. 1313*, Ucluelet enacted a principal residence requirement for the operation of short-term rentals in the form of *Bed and Breakfast (B&B)* uses on single-family residential zoned properties. The new principal residence requirement in the *STRA Act* therefore poses little change for those operations.

B. Other B&B-specific regulations:

Also adopted with *Ucluelet Zoning Amendment Bylaw No. 1310, 2022*, were changes to the regulations of short-term tourist accommodation specific to Bed & Breakfast uses within single-family homes, found in section 400 of the zoning bylaw. Council held two public hearings on the bylaw, a committee of the whole discussion and a special Council meeting held August 2nd, 2022. The result was direction from Council to enact changes to the B&B regulations aimed at allowing “traditional” B&B’s but to disallow the recent pattern of purpose-built guest suites accessed and run more independently from the residential household of the host.

The adoption of Bylaw No. 1310 resulted in the current B&B regulations; changes enacted with the adoption of the bylaw on September 6, 2022, are highlighted in the box to the right.

C. Legally Non-conforming B&B’s:

Bed & Breakfasts that were legally established prior to the adoption of Bylaw No. 1310, and which do not meet all of the requirements found in section 404 of the zoning bylaw, enjoyed legally non-conforming status. A legally non-conforming use can generally be continued (but not expanded) as long as it is not discontinued for a period of six months. This has been the case under provincial legislation and case law in BC for decades. With the enactment of the *STRA Act*, the Province has removed legally non-conforming protection specifically for *short term rental* uses - effective May 1st, 2024.

404 BED & BREAKFASTS

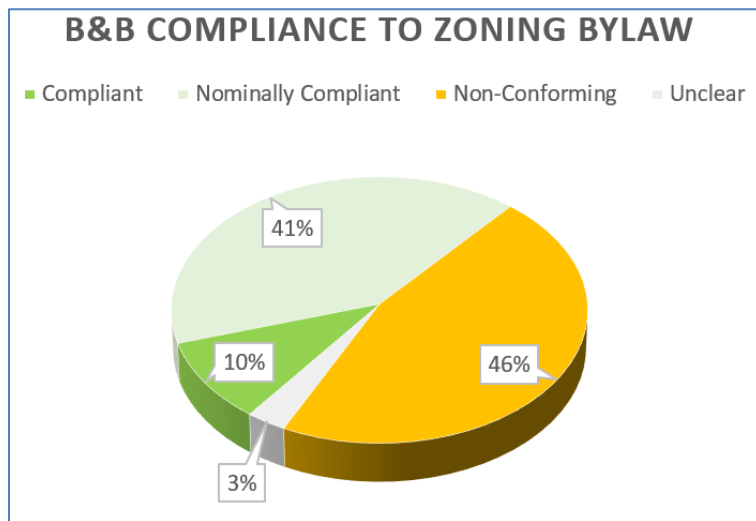
404.1 One *bed and breakfast* use is permitted within a *single family dwelling* if all the following conditions are satisfied for the establishment and continued use and operation of the *bed and breakfast*:

- (1) *Bed and Breakfasts* are only permitted:
 - (a) in the *Zones* where *single family dwelling* is listed as a *principal permitted use* and *bed and breakfast* is identified as a *secondary permitted use*;
 - (b) *accessory* to a permanent *residential* use and must be administered by an occupant of the *single family dwelling* for whom the *single family dwelling* is their *principal residence*;
 - (c) within one *single family dwelling* per *lot*; and
 - (d) within a *building* and on a *lot* that does not include a *Daycare Centre* or a *Community Care Facility*.
- (2) A maximum of three (3) guest rooms may be used for the *bed and breakfast* with a maximum occupancy of two (2) guests per room.
- (3) The gross floor area devoted to the *bed and breakfast* use must not exceed 35% of the habitable area of the *single family dwelling* in which it is located.
- (4) The area designated for *Bed and Breakfast* use (including *guest rooms* and any common room provided outside of the *residential* occupant’s personal area) must not contain the following:
 - (a) Cooking facilities or appliances, with the exception of a microwave, toaster, kettle and/or coffee maker;
 - (b) 220-volt supply which could be used for larger appliances;
 - (c) Refrigerators in excess of 5.0 cubic feet capacity.
- (5) A valid District of Ucluelet Business Licence is required in order to register a *bed and breakfast*.
- (6) Off-street parking must be provided in accordance with Division 500.
- (7) Consistent with a traditional *bed and breakfast* use a *bed and breakfast* use must include a minimum service of a continental breakfast.
- (8) A *bed and breakfast* use must be accessed from the main entry of the home in which it operates, and cannot operate remotely utilizing coded entry locks and/or key lock boxes.
- (9) Any exterior door to rooms used for *bed and breakfast* uses must not be utilized as the principal entrance and exit to the *bed and breakfast* use.
- (10) A *bed and breakfast* use is an integral part of the home and must not have a separated or locked-off common area.

The effect of this is that those B&B businesses which enjoyed legally non-conforming protection will lose that protection on May 1st. Under section 2(2) of the *Ucluelet Business Regulation and Licensing Bylaw No. 922, 2003*, as amended, “no person shall carry on a business within the municipality without approval from the License Inspector or Director of Planning confirming that the property on which the business is located or operated from, **meets all applicable regulations of the District of Ucluelet Zoning Bylaw**, as determined by the License Inspector or Director of Planning.” This will affect the renewal of business licences for those B&B’s that formerly enjoyed legal non-conforming status which will disappear on May 1st.

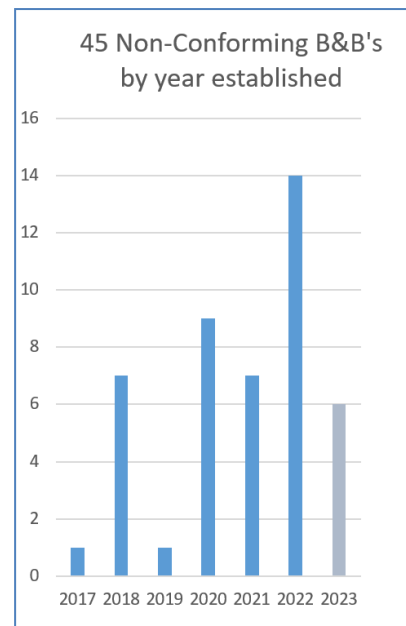
D. Non-conforming B&B’s:

Staff reviewed the details of all business licences for B&B operations (note this discussion is focussed on B&B’s – the bylaw changes in 2022 did not affect *guest house, vacation rental or resort condo* uses). Of the 100 current B&B business licences, 51 appear to conform to the zoning regulations (of these, 10 are truly “traditional” B&B’s within the main house and 41 are only nominally accessed through the host’s residence): 46 appear to be non-conforming and the status of 3 are unclear (mostly older files with less information).



Of the 46 non-conforming B&B’s, all were established since 2017 and all have entrances that are separate from the main house. These businesses were established according to the bylaw regulations that were in effect at the time, but they now do not comply with sections 404.1(8), (9) and/or (10).

As was presented to Council and the public in 2022, homes that were under construction at the time that had shown B&B rooms on their building permit plans - prior to the adoption of Bylaw No. 1310 - were deemed to have established the use and subsequently received business licences. That handful of B&B’s enjoyed legal non-conforming status like the others established prior to 2022.



E. Options going forward:

The removal of legal non-conforming protection for STR uses by the province is one new tool to enable local governments to “return short-term rentals to the long-term housing market”. That is not to say that this is necessarily the best tool to use in the context of the Ucluelet community and/or bed & breakfast uses in residential neighbourhoods. Decisions on whether to enact mechanisms to encourage - or require - homeowners to transition short-term rentals into long-term housing uses are best made at the local level, following a broader community discussion. The new provincial legislation now makes the discussion possible.

Whether existing B&B’s might convert to long-term accommodation (if the B&B use were removed or becomes infeasible) is uncertain; it would depend on many factors including the situation and preferences of property owners, the specifics of building layout, cost of renovations (if/where necessary), etc. In many cases, areas in homes that are currently non-conforming B&B units could be compared to bachelor suites in size and layout.

A range of options exist for Council to consider. The following list of options is in order, from most to least restrictive. This sequence also corresponds in order from most impact on an existing B&B business and property owner, to least impact:

	Options	Implications
1.	Make no changes. Existing non-conforming B&B’s would not receive a renewed business licence. Property owners would need to cease advertising their B&B rooms and cancel any bookings from May 1 st onwards.	<ul style="list-style-type: none"> ● Impacts 46 to 49 property owners; ● Staff time required for inquiries and applications; ● Possibility of some conversion to long-term housing.
2.	Make no changes to the zoning bylaw, and signal that existing B&B business licence holders could apply for a site-specific zoning amendment or Temporary Use Permit (TUP) if they wish to re-instate their B&B business. Property owners would need to cease advertising their B&B rooms and cancel any bookings from May 1st onwards, and make an application for a site specific approval; if successful they would then apply for a new business licence.	<ul style="list-style-type: none"> ● Impacts 46 to 49 property owners; ● Significant staff time commitment for permit processing, zoning amendment applications and other competing commitments could be jeopardized. ● Possibility of some conversion to long-term housing. ● Increased controls over B&B’s – TUP could be cancelled at anytime if nuisance complaints received
3.	Direct staff to prepare a zoning amendment to recognize those existing non-conforming B&B uses but with a sunset clause - providing a future date when the B&B’s would need to become fully compliant with the regulations, or cease operation.	<ul style="list-style-type: none"> ● Impacts 46 to 49 property owners; ● Staff time required for inquiries, zoning amendment; ● Possibility of some conversion to long-term housing.

4.	<p>Direct staff to proactively prepare TUP's for the 46 non-conforming B&B businesses, and give notice to enable public comment. Property owners would need to cease advertising their B&B rooms and cancel any bookings from May 1st onwards, and if successful in obtaining a TUP they could then apply for a new business licence. This option would allow those non-conforming B&B's to operate for up to 3 years (depending on the term permitted by Council) before renewing, seeking alternative authorization or ceasing operation.</p>	<ul style="list-style-type: none"> • Some impact on 46 to 49 property owners & business licence holders; • Staff time devoted to preparing permits and notifications; • Possibility of some conversion to long-term housing.
5.	<p>Direct staff to renew business licences for existing established B&B's for a period of one year while Council considers changes to the B&B regulations and other zoning amendments. In this case, Council could consider directing staff to prepare draft amendments and seek public input on changes such as:</p> <ul style="list-style-type: none"> • create a B&B zone that would apply to those existing legal non-conforming B&B businesses to make them conforming (i.e., despite section 404 of the zoning bylaw allow those specific properties to have their B&B rooms accessed by separate exterior entrances); or, • remove the regulations in section 404 of the zoning bylaw which restrict B&B rooms from having separate entrances from the main house. 	<ul style="list-style-type: none"> • No immediate impact on 49 property owners – would allow continuity of existing businesses for the short term; • Staff time required to draft bylaw amendments; • Decision on bylaw changes would benefit from the concurrent broader discussion on housing, growth, the balance of tourist accommodation and the appropriate role of B&B's in that context; • Impact on long-term housing would depend on the direction chosen and the details.

Other options or variations on the above could also be considered. Some possible outcomes include:

- A. If no changes are made:
 - o As of May 1st, non-conforming B&B businesses would need to cease operation;
 - o Some property owners may make physical changes to their homes to become compliant with the bylaw, and then return to operating a B&B business;
 - o Others may leave the B&B business;
 - o Of those, some may instead make changes to their homes to instead seek long-term tenants;
 - o Tourist accommodation units would be removed from the market, at least in the short term; this could impact overall visitation and the revenues of other tourist-sector and ancillary businesses;

- Conversely, other forms of tourist accommodation may see additional demand;
- May have a downward effect on some single-family residential property values;
- District could see a reduction in business licence revenue in the order of \$20k to \$25k.

B. If non-conforming B&B licences are renewed for 2024:

- Would ease uncertainty that was introduced with the adoption of the *STRA Act*;
- Would allow time to understand the complete picture of housing demand, legislative impacts and community preferences before making regulatory changes;
- Could delay the conversion of some properties to providing long-term housing accommodation as an accessory use.

F. Context – growth and the balance of Housing and Tourist Accommodation:

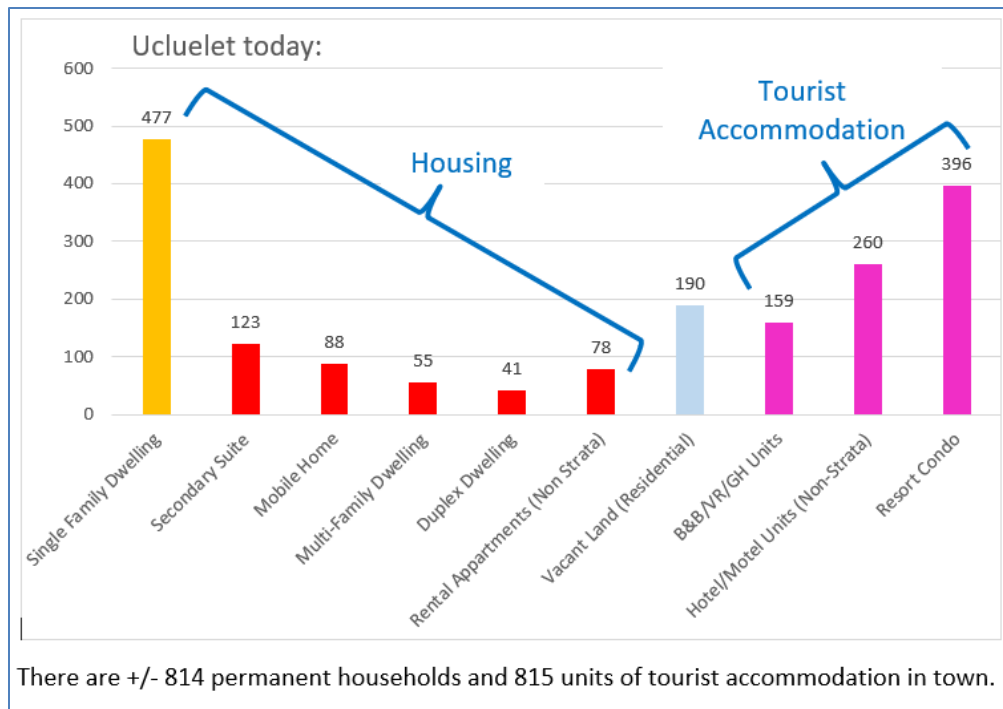
Under the suite of new housing legislation enacted late last year by the Province, the District will in the coming months need to consider other changes to municipal bylaws. This includes:

- updating the Housing Needs Report to identify the housing required to meet the community needs for the next 20 years;
- amending the OCP bylaw to designate adequate land to meet community housing needs for the next 20 years;
- amending the zoning bylaw to include enough appropriately-zoned land to meet community housing needs for the next 20 years.

Following the Housing Needs Report update (at the time of writing this report, criteria for these required reports have not yet been published by the Province), a Council and community discussion will be timely to revisit a number of related topics:

- the desired amount of total community growth;
- the balance of housing and tourist accommodation in Ucluelet;
- the best strategies and types of housing to meet the Ucluelet community’s needs;
- the appropriate locations for new housing and housing types, including the relative impact and availability of services.

The growth analysis that led to the “low-ish growth scenario” endorsed by Council in the 2022 OCP relied on the assumption that Ucluelet would control the number of B&B tourist accommodation units. Changes to the zoning and business regulation bylaws were adopted to manage the form of B&B operations, however no bylaw changes were made at the time to directly manage the number of B&B’s operating throughout town. Currently all residential zones which allow B&B’s as an accessory use can have up to 3 rooms and 6 guests in a B&B operation. The question of overall growth - and the balance of housing units to tourist accommodation units - will require that Ucluelet make informed choices about land use.



Some regulatory options that the community and Council can consider include:

1. remove B&B as an outright secondary use in all residential zones and move to a process of permitting B&B's by issuing TUP's;
2. limiting the number of B&B business licences issued;
3. create a small-scale tourist accommodation zoning designation to apply to properties operating tourist accommodation on properties among residential neighbourhoods. This could be used to recognize the long-term continuation of existing businesses in Ucluelet – including established B&B's, vacation rentals, guest houses, etc.;
4. change zoning to allow new B&B units only on properties that already have long-term rental accommodation in place;

The above items are direct regulatory options. Providing more supply and diversity of long-term housing units in town will not just be accomplished through regulation. Other approaches the District can consider include:

1. pre-zoning lands for additional types and densities of housing, including more rental and affordable / attainable options;
2. streamlining approval processes for new housing development and housing conversions;
3. educating and promoting development of new housing especially accessory dwelling types;
4. providing incentives for creating new housing development.

All of these items will be the focus of further discussion in the coming weeks and months for Council and the community to consider. Since the results of these discussions may affect the desired shape of long-term regulations of Bed and Breakfast uses, staff suggest that an interim approach may be most appropriate. Staff are seeking input and direction from Council on all of

the above, but also recommend that business licences be renewed for the next year to enable existing B&B's – which were initially established lawfully according to the rules in place at the time - to continue uninterrupted for this season. Meanwhile, as the community discussion on housing and growth evolves, staff and Council will keep in mind the options for a more certain set of B&B regulations for the long-term.

RECOMMENDATION TO COUNCIL:

THAT the Committee of the Whole recommend Council direct staff to renew those existing Bed and Breakfast business licences that are legally non-conforming to section 404 of the zoning bylaw as of April 30, 2024, for a period of one year, notwithstanding section 2(2) of *Ucluelet Business Regulation and Licensing Bylaw No. 922, 2003*; and

THAT the Committee of the Whole rise and report.

Respectfully submitted: **Bruce Greig, Director of Community Planning**
 Duane Lawrence, CAO