

DIGITAL TRANSFORMATION AND THE STRATA SECTOR:

How data can serve the regulatory, research and consumer protection needs of residential strata communities in NSW

A. Introduction

1. The scale, complexity and expansion of apartment living is unparalleled. In NSW, there are now approaching 90,000 residential and mixed-use strata communities and an increasing number of multi-tiered developments. This population of over a million people is growing rapidly and is an important constituency supporting upward of \$3 billion worth of economic benefit to the NSW economy. It is in the public interest to support residential strata communities to ensure that the quality of life, governance, security and financial management of the sector makes these communities an attractive place to live.
2. There are several information and data needs across the strata sector in NSW (and Australia) that are currently not being met because of a lack of underlying baseline information. The Owners Corporation Network of Australia Ltd (OCN) believes that the time is right to review what those information needs are and how best to serve them.
3. This initiative is being undertaken at a time when the digital transformation of the Australian economy is well underway, in fact, it is already here! The entire Australian economy and culture is experiencing a massive power shift. Disruption driven by new technologies is transforming whole industries and the ways that people connect and engage socially, economically, culturally and politically have diversified. The millennial generation assumes and expects that it can access information from their smart phone; the over 50s are not 'technophobes' as is commonly portrayed. The availability of new technologies is an opportunity to put more information and power in the hands of consumers, especially new buyers. The questions are (i) what information; (ii) how can digital transformation serve the wider interests of residential strata communities; and, (iii) how can this be done in a way that is ethical and sustainable?
4. This paper is not confined to the interests of new buyers or the millennial generation. It puts the case that greater transparency can and should support a number of objectives. The overall goal is twofold: to support new buyers in making their initial purchase decision and to support better performance outcomes for residential strata communities. These objectives are inter-related. This is more than a simple 'the right to know' for new buyers. It is the right to information, good strata governance and consumer protection through the life cycle of strata property ownership.
5. The purposes for which greater transparency is required must be decided, the objectives of the system(s) must be defined and the sources of the information identified. The design of the system should enable:
 - government to communicate directly and simultaneously with residential strata schemes;
 - the interrogation of data for various purposes by government and researchers; and
 - new buyers to access limited core information that can be appropriately made public.

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6. In order to get to the point where there are processes and systems in place to enable this, the gaps between what currently exists and what is required must be calibrated so as to know:
 - (i) what needs to be done;
 - (ii) who can and should have responsibility for doing it;
 - (iii) how much it will cost.

7. The OCN has advocated the concept of a “strata register” and “strata annual update” for some time and the value proposition for that model is becoming more evident. The rationale is to enable:
 - (i) the strata regulator to communicate directly with committees and communities;
 - (ii) committee members to be connected-up to a source of independent information;
 - (iii) basic governance/performance data to be fed back to the regulator;
 - (iv) evaluation of regulatory reforms and independent research on a range of sector issues;
 - (iv) new buyers to search a publicly available register for core-information.

B. Background

8. There has been an exponential growth in the number of residential strata schemes approved and completed across NSW in the last ten years. The sector will continue to expand while the macro-economic conditions favour investment in residential construction and while urban consolidation remains a major goal of successive Governments. However, there has been no commensurate investment in capacity, systems support, data collection or strategies to meet the information needs of new buyers or the governance support needs of these communities.ⁱ

9. The defects crisis in the national residential construction sector has put the spotlight on the vulnerability of unsophisticated consumers buying off the plan. The new e-planning and e-construction systems are part of building a modern transparent regulatory environment that supports better performance in those markets. There is also a case for mandatory disclosures to put key information directly into the hands of consumers who are buying off the plan and into recently completed buildings.ⁱⁱ

10. It is also fair to say that the strata sector is characterised by a lack of transparency, not just at the initial point of purchase but through the lifetime of a residential strata scheme. The nature of strata property ownership and much of how the strata sector operates is opaque to the general public.

11. It is OCN’s experience over seventeen years that the lack of information available to the strata regulator, researchers and independent organisations, like OCN - is caused by:
 - (i) fragmentation across Ministerial portfolios and agencies;
 - (ii) no direct access to residential owners corporations and community associations; and

- (iii) the absence of a strata registry that holds core information.
12. This has resulted in a “system” that lacks a communication channel and inhibits the collection of data – in other-words – the “strata sector” is incoherent and difficult to penetrate. Residential strata communities are not visible and simply included or lost in references to the “strata industry”, which sits within the “property services” work of the Office of Fair Trading (OFT).
13. There is no system of disclosure to the strata regulator and no channel for direct communication to ensure accurate consistent information gets directly to owners corporations and their strata committees. The government response to the threat of flammable cladding has been complicated by this inability to communicate directly with schemes.ⁱⁱⁱ There are other examples where direct communication would facilitate government programs such as the roll out of NBN. It also means that core data to plan information, education and compliance initiatives is not available. This makes the deployment of resources less efficient. The ability to research practices that distort the strata sector markets, is totally inhibited. This means that practices and standards that are a drag on productivity are left unanalysed.

C. The Role of Strata Agents and Building Managers as “Gatekeepers”

14. The strata agent and building facilities management industries provide important services to strata property owners and these industries are expanding as macro-economic conditions favour continued growth of the strata sector and more complex strata communities. But the lack of a direct communication channel has resulted in a commercial third party becoming entrenched as the ‘gatekeeper’ to residential strata communities.
15. The modern residential strata scheme is larger and more complex than its predecessors frequently part of a multiple scheme or mixed-use development with significant property assets and financial resources. There are many opportunities for conflicts of interest and collusion that can work against the interests of residential strata communities. The new owner does not select the first strata management agent or building facilities manager, who are often in the same corporate structure.
16. Importantly, the growing trend in the strata management industry toward ‘integration’ remains unidentified or researched. Meanwhile, the annual Macquarie Bank Benchmarking Report promotes ‘diversification’ to improve the profitability of these companies without considering the consumer protection issues that the drive for better profit raises.^{iv} The normal levers of supply and demand do not operate and the ability to compare performance and value does not exist.
17. By facilitating direct access to strata communities, it will be easier to identify “inefficiencies” that currently go un-detected and unanalysed and look at the performance and productivity of strata schemes. For example, the ‘closed shop’ of ‘approved providers’ reduces competition. Procurement procedures and financial reporting are not always as robust as they could be. The quality and control of strata records and internal communications within a scheme is often

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inadequate. There is wide variation in performance standards and the value of time expended by owners on scheme management and on addressing these issues is not measured.

18. The role of 'gatekeeper' can also work against the interests of other service providers such as insurers, banks, accountants and lawyers. These commercial operators depend on strata agents for referrals and their own commercial survival. It makes them reluctant to take up consumer protection issues that would improve transparency and performance.
19. These factors combine to trap inexperienced residents and entire communities in a conflicted commercial environment where the relationships between client and service provider, and between service providers, can and do become blurred. The strata registry is a step toward greater transparency and enabling research by government and independent researchers.
20. In the future, this initiative could examine how best to overcome the lack of information available to new buyers who are also unaware of the longer-term contracts concerning embedded electricity, telephone, and internet networks and water recycling arrangements. In some cases, developers are transferring the costs of this infrastructure new owners; these costs would have previously been paid by the developer.

D. Education about Strata Property and Shared Communities

21. Historically, strata property has been a relatively marginal rather than a mainstream form of housing in Australia. There is a very low level of knowledge in the community about the nature of strata title and the rights and obligations attached to strata title and communal living.
22. In general, OCN also finds that the cultural emphasis on the individual and private property does not always translate well to shared strata ownership or community living and this needs to be addressed. A strong "freehold title mentality" can undermine the ability of an owners corporation to act collegially and collectively. This has become stronger with 'disrupters' facilitating short term letting knowingly and deliberately in violation of planning and strata by laws.^v
23. It is not well understood that owners of a lot in a residential scheme do not have rights equivalent to freehold. If 75% of the owners want to, they can limit the ordinary incidents of title with a by-law. Strata property is also subject to a range of planning law constraints. In the close residential environment of a strata scheme the impacts on amenity, security, and costs is immediate and better understanding of these mutual obligations would reduce conflict.
24. There is a need to provide information so as to educate consumers about the risks associated with strata property and what to look for when buying into a residential strata community. These consumers have a right to know their rights and their obligations so they can act with more confidence individually and as part of a group. The strata registry, like that in Ontario, should be a gateway to direct new purchasers toward further information about strata property ownership more generally.

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25. It is still the case that many buyers do not understand strata levies or that when they are buying an apartment they are also buying an equitable interest in things like car parks, lifts and cooling systems, and have unlimited liability, strict legal duties and an obligation to act in the interests of the entire body corporate. There is an opportunity at the time of purchase to help rectify this gap in knowledge by providing information about the rights and responsibilities and the nature shared property ownership and communal living.

E. Unsophisticated Consumers, Information and Transparency

26. In particular, new buyers have little and poor information about the risks associated with owning strata property or how the construction industry and the strata sector operate in reality. In the off the plan scenario the consumer rarely knows much about the developer, builder, or building or strata management company. The asymmetry in information and power is stark. Purchasers rarely understand the long-term contractual obligations for services such as embedded energy networks which they are unwittingly accepting when becoming part of a new owners corporation. Even for an experienced investor it is difficult to perform due diligence that will remove all financial or performance risks, especially for a new apartment.^{vi} Latent defects are by definition not visible.
27. There has been a loss of confidence in the new apartment market following the high-profile failures of the Opal Tower and Mascot Towers. The public demand is primarily for more robust regulatory standards to provide the assurance that buying a safe, habitable home is the norm and that expensive defects are a low risk. If something does go wrong consumers need a less expensive and less conflict-ridden way of getting defects rectified.
28. In addition to regulatory change, the current loss of confidence also signals a strong need to educate people to better enable them to manage the risks. This would be assisted by a ratings system calibrating the performance of builders and developers, mandatory disclosures by developers and builders and a statement of buyers rights. This would prompts a buyer to seek advice and, in established schemes, to obtain a s 182 strata report.
29. It must be made clear to consumers that there is no compulsory home warranty insurance for 4+ storey residential apartment buildings. It is right to prompt them to insist on knowing the identity of the certifier; to know whether the building company is project specific; the corporate history of the directors; whether there is latent defect insurance and if there have been any inter-State licensing or registration issues.
30. Buyers interested in recently registered or more established schemes are in a similarly vulnerable position but the range of information may be broader and relate to actual “performance” over time. In recently registered strata plans pertinent issues include: whether the developer has lodged the bond; if the interim or final defects report has been completed; the existence of, for example, embedded network contracts and the name of the strata and/building management company.
31. The lack of transparency means that it is not a perfect market place where consumers can compare and choose their goods and services and compare offerings. There is no price

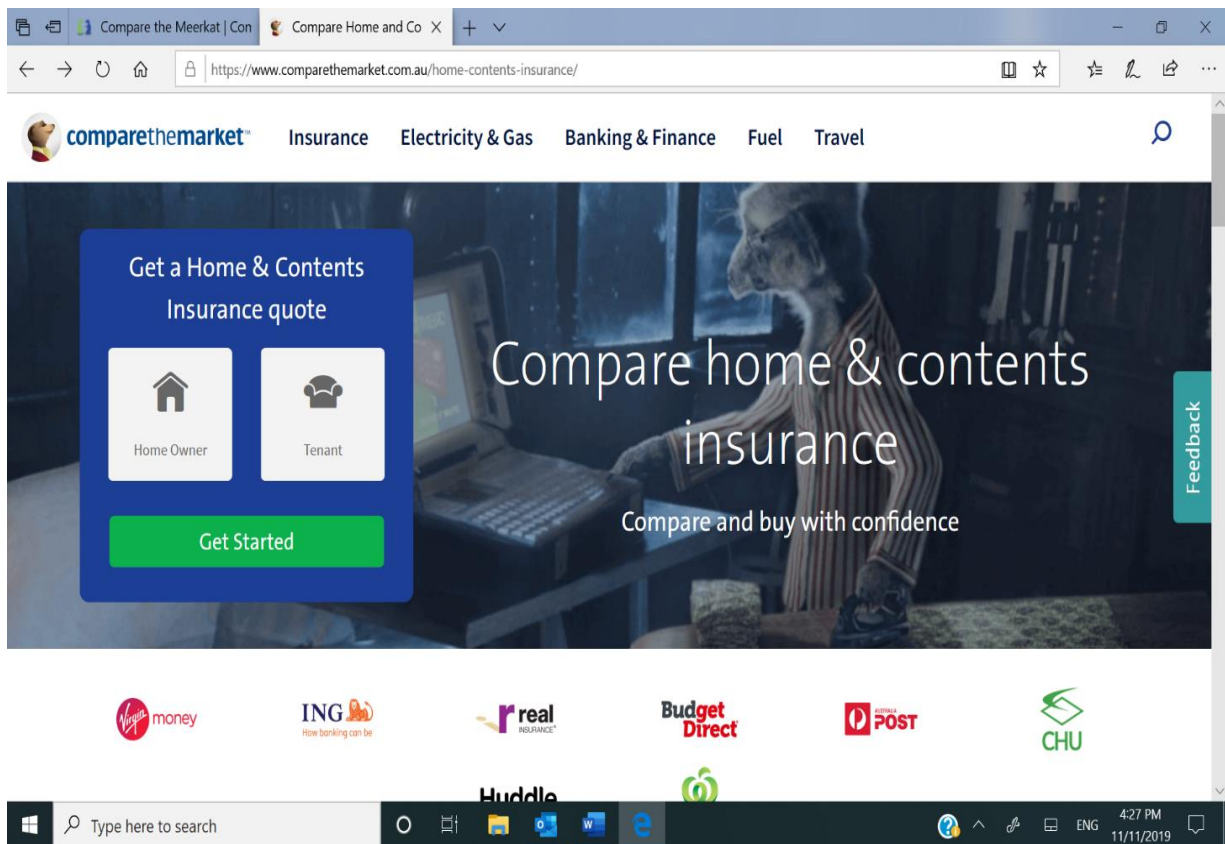
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comparison website, or “Meerkat” that compares strata levies, the costs of embedded energy networks, or the performance of the strata or building management companies.^{vii} The normal levers of supply and demand do not exist. How does a new buyer or a residential strata community compare the relative merits in strata management or building companies? How does such a person or owners corporation identify service providers that are related entities housed in the same corporate structure?

32. Even products designed for the sector are not part of price comparator or consumer review websites. Products such as strata insurance and strata loans remain a complete mystery even for people who have lived in strata for many years. The image below is of the “compare the market” website: nothing similar exists for the strata sector.



F. Strata Register and “Annual Update”

33. The need for greater transparency is not confined to new buyers in the market. Broadly speaking, the same types of information are needed by the strata regulator, organisations like OCN and researchers working across a broad range of topics from building defects to governance, network analysis, commercial practice and consumer satisfaction.
34. The OCN has advocated the concept of a “strata register” and “strata annual update” and the value proposition for that model is becoming more evident to provide:
- a direct communication channel with owners corporations;

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- ii. better data for the strata regulator to support information and compliance strategies;
 - iii. controlled access to residential strata communities for research purposes;
 - iv. the ability to track trends in the strata industry and identify consumer issues; and
 - v. accessible core information for new buyers and links to sources of relevant information.
35. The Strata Register is not a substitute for pre-contract searches but it should enable buyers to access initial information. It should assist conveyancers and property lawyers. There is also the question of time in a 'hot' market when purchasers have 'FOMO' (fear of missing out) and cut corners at the pre-contract stage.
36. The general lack of information about the sector and any specific scheme makes it difficult for buyers to manage risk and for government to intervene to stimulate market efficiency or support improvements in governance. For example, the reliability of strata records and standards of record keeping has been raised as a weakness in the industry.^{viii}
37. The standards of procurement, financial management, accounting and the rationale for levies are not always robust. There can be a reluctance to invest in repairs and maintenance. Over-pricing and over-servicing are also an issue. There are new and emerging issues that warrant a coherent response: increasing use of CCTV, rising energy costs and strata insurance premiums are examples.
38. The quality of governance and educating strata committee members will always be a challenge in a changing population. However, there is a willingness by strata committee members to learn more about strata law and governance on behalf of the residential strata communities who elect them.
39. The existing capacity of OFT to meet the information and education needs of the sector or promote better compliance is limited. The mediation team can develop information programs based on complaints data but this is reactive and incomplete. Easy access to disaggregated data (e.g. by age, size, type, suburb) would better enable the strata regulator to perform its functions.
40. It is estimated that about a third of the sector is self-managed. A large percentage of smaller schemes have no or limited strata agent services and cannot afford a strata lawyer. The strata regulator has no insight into the quality or performance of these schemes at all. These schemes are frequently well run and harmonious but the impact of disputes, poor decision making and power imbalances is especially acute in two lot and small schemes of less than 20 lots.^{ix} There is also an increasing number of apartment buildings coming to the end of their economic life and no avenue for connecting with or collecting data on strata renewal reforms.
41. The integrity of the by law system with poorly drafted by laws or by laws left unregistered is a matter of concern. The poor quality or ambiguity of by-laws drafted by a non-lawyer can lead to unnecessary conflict and extra cost. The obligation to hold a copy of the consolidated by laws is a message that is also unlikely to have penetrated. The understanding that by laws are legal instruments that must be registered to have any legal force is patchy. This is an area of governance and performance that can be improved with more information and support.

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42. There are four pieces of legislation, multiple regulations and numerous changes that impact on residential strata communities and community associations. There is also a raft of other legal frameworks that apply but no organised way of communicating that information to owners. For example, the Australian Tax Office (ATO) ruling on the treatment of assessable income earned by an owners corporation is unlikely to be widely known. Typically, this information is disseminated in an ad hoc way through networks including, OCN and some strata lawyers.
43. In 2020, a review of strata legislation will be conducted but there is no efficient way to collect data, or organise consultative groups to measure the effectiveness of recent reforms. The ability to conduct research on systemic and emerging issues is also stymied by the lack of a communication channel and lack of basic reporting. OCN has advocated the creation of an evaluation framework to measure the effectiveness of new reforms to improve building quality. We partner with researchers, such as the City Futures Research Centre (UNSW), who face challenges in securing statistically valid samples for critically important work. Research projects undertaken by urban planners based at the University of Sydney, and UTS Business School analysts would benefit considerably from easier access to residential strata communities subject to ethical and privacy considerations.
44. It is possible to disseminate information through various passive channels such as websites, and active networks such as OCN, strata lawyers and the strata management industry. However, an owners corporation has a right to the information that affects it and especially information that affects its rights and obligations. It will not always be appropriate to have this information filtered through a third party – even an independent non-conflicted organisation like OCN.
45. We now know that the inability to communicate clearly and quickly with owners corporations about the risks of flammable cladding and their obligations led to inefficiencies, including ‘over registration’ to avoid prosecution. There is also considerable frustration at the lack of coordination and communication - whether or not that is a fair account – that is the public perception. The OFT had more capacity to notify landlords via the Rental Bond Board data than owners corporations. It is the owners corporation that has statutory obligations and a duty of care for all residents.

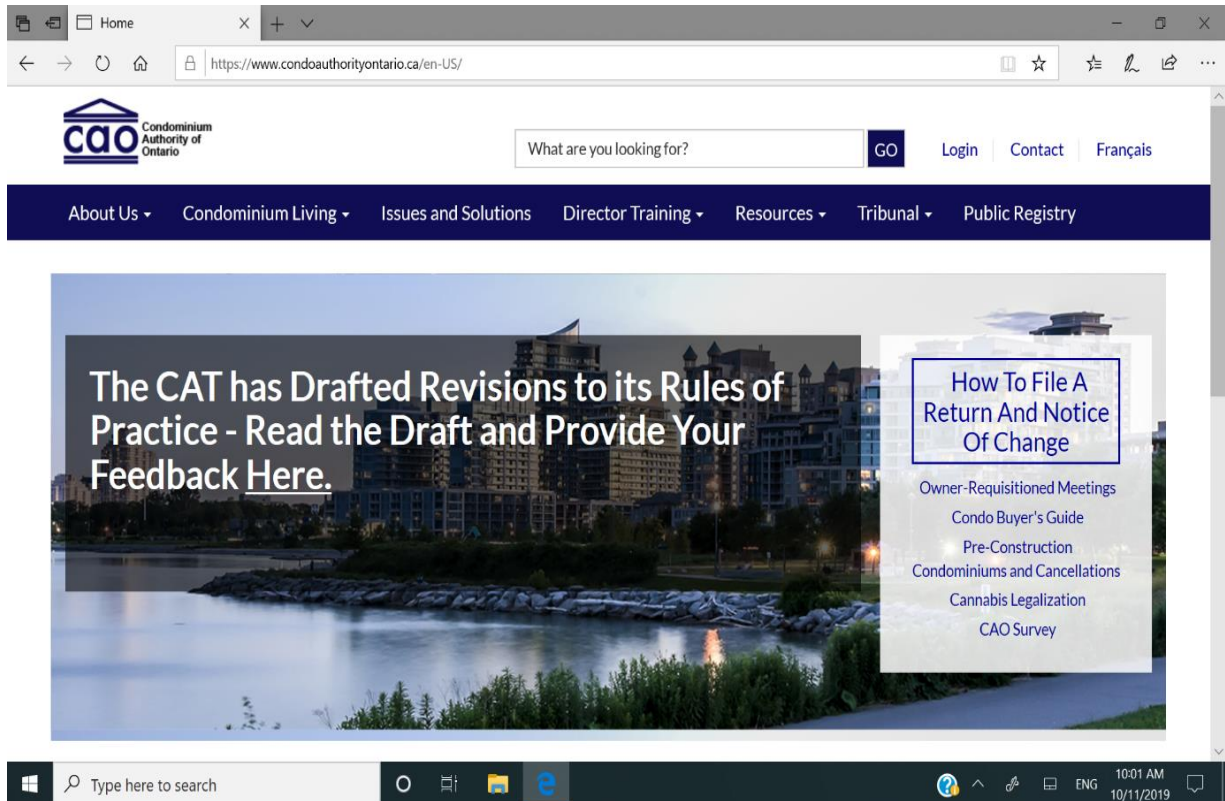
Strata Register

46. To date, the starting point of this discussion has been the simple observation that NSW has no easily searchable strata register as such, or anything akin to the Australian Securities and Investment Commission (ASIC) company register, the Australian Business Name (ABN) or Australian Charities and Not for Profit Commission (ACNC) charities register. There is significant potential for the benefits of a registry to outweigh the inconvenience. But these benefits will only be achieved if the system is designed to support the needs of these communities and is not treated as a tool for commercial interests. To have acceptance the information must not be able to be sold and what is to be publicly searchable must be prescribed and limited.
47. There are strata registry systems already in Ontario and South Africa.^x In Ontario the administration of the Condominium Register and the annual condominium return is the responsibility of the Condominium Authority of Ontario (CAO), which is part of the Consumer Protection portfolio. The image below is a screenshot of the homepage.

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48. NSW Land Registry Services (LRS) has a key role to play as it is the repository of the strata plan. However, its function is to operate a land title system – it has no function in relation to the ongoing governance or performance of residential strata schemes. It is important to draw a distinction and keep the difference between these functions clearly in mind going forward. The strata registry, which is part of a strata information system, belongs within the operations environment of the Strata Regulator.
49. The strata plan data held by LRS includes the address for notice of service. The current s. 265 of the *Strata Schemes Management Act 2015* (NSW) requires that a change of address for notice of service for the owners corporation must be notified to the Registrar General.^{xi} However, it appears the details are frequently out of date putting the integrity of the system in doubt with implication for enforcement of by-laws and law enforcement generally. If the only “transparency gap” to be filled is the notice of service address this could be done but it would be a missed opportunity to create a more user-friendly strata registry that can deliver valuable benefits to the sector.
50. The first entry onto the Strata Register could be at the time of registration of the strata plan, which contains the initial data that can be used to populate a strata registry system. This would include the proprietor, contact details, the actual address of the scheme and the address for notice of service and other relevant information (see Appendix A). This could be funded by the original owner and include the initial information about the first strata management agent and first building manager. This could then be updated much like the ASIC register, for significant

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changes and, at least, on an annual basis following the AGM of the owners corporation. The initial task is to identify what LRS already holds and what can be extracted that is relevant and of value to seed the strata information system.

51. The image below is a screenshot of the searchable Condominium Register of Ontario, Canada.

The screenshot shows the CAO Public Registry website interface. At the top, there is a search bar with the text "What are you looking for?" and a "GO" button. Below the search bar is a navigation menu with links for "About Us", "Condominium Living", "Issues and Solutions", "Director Training", "Resources", "Tribunal", and "Public Registry". The main content area is titled "Search by the Condo Corporation's:" and is divided into two sections: "Legal Name:" and "Operating Name:". The "Legal Name:" section includes a dropdown menu for "Region:" and a text input field for "Number:". Below this, it says "OR". The "Operating Name:" section includes a text input field for "Operating Name:" and a dropdown menu for "Region (Optional)". At the bottom of the form, there is a checkbox labeled "I agree to the public registry's terms of use". The browser's address bar shows the URL "https://www.condoauthorityontario.ca/en-US/public-registry/". The Windows taskbar at the bottom shows the time as 10:23 AM on 10/11/2019.

Strata Annual Return and Strata Secretary

52. The role of s 265 would need to be re-examined but it is important not to confuse the functions of LRS with the functions of OFT, which is the Strata Regulator. To require an owners corporation to provide more than notification of a change of address for service, would require legislative provisions to define the nature and scope of the obligation. It may also require an amendment to s 43 of the *Strata Schemes Management Act 2015* (NSW) to include the completion and lodgement of the annual update as a function of the Secretary.

53. The content of the annual update and what is published on the public registry could be prescribed by regulation. It should be a mandatory item included in the AGM agenda. The office holders are appointed at the first meeting of the committee following the AGM and recorded in the minutes.

54. There needs to be similar consideration given to the community, precinct and neighbourhood associations. The alternative is to simply identify whether a strata scheme is part of a multi-scheme arrangement.

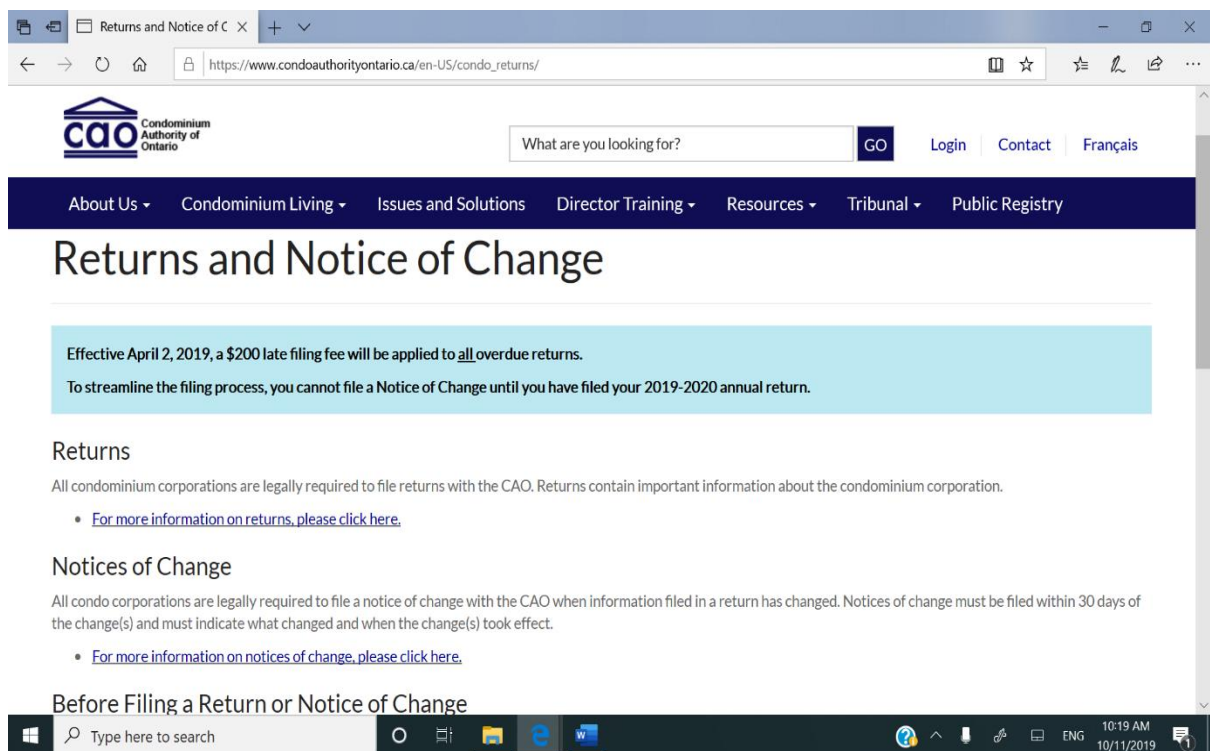
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55. OCN favours an online strata registry with its own portal so the scheme Secretary can lodge the return via a smart form or update the register much like the ASIC system or the Rental Bond Board online lodgement system. It would make sense for the public facing website host or point people toward OFT strata sector information, including, for example the new buyers guide.
56. The “annual update” would be a set of simple declarations that updates the details of committee members and provides basic governance data. (See Appendix A) The condominium board (that is the Ontario equivalent of our NSW strata scheme owners corporation) is required to file an annual return. (See Appendix B and C) The Condominium Authority provides supporting information and a central contact point to answer questions and provide guidance. The site also publishes guides and information sheets to assist boards to comply with legislation.

The image below is a screenshot showing more information on how to actually proceed in filing returns to the Condominium Authority of Ontario and other links to assist in completion.



57. The equivalent in NSW would be, for example, an update of the address for service, names of committee members or at least the Chairperson, Secretary and Treasurer, whether the scheme is self-managed or the name of the strata management company or building management company if applicable. It would give the owners corporation the opportunity to post its NABERs rating. There is value in knowing whether a compulsory strata manager has been appointed by NCAT; whether a current fire certificate or fire order is in place and whether a strata renewal application is under consideration.
58. The “annual update” is not intended to be complex, lengthy or detailed. It would not include financial information but some of the core information that would be useful for a registry to include are: how many lots are owner-occupied; how many lots are tenanted; and how many

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lots are used for short term let (by a non-resident owner). On that last point, it would be important to record on the face of the registry whether a scheme has a “no short term letting” by law as that is primary information relevant to buyers for compliance and enforcement purposes. It should not require a paid search for by laws to discover that information.

59. This type of data would provide:

- the regulator with a point in time snapshot once a year;
- contact details and data that supports education and compliance strategies; and
- some data that could be publicly searchable for new buyers.

60. This type of data transparency would promote good governance within a scheme.^{xi} It would, for example, promote the updating of the strata roll, compliance with the tenancy notice requirements, and the obligation to give notice that a lot is being used for short term letting. These obligations are frequently ignored, which has a direct impact on governance of the scheme. Transparency about the profile of the scheme would provide valuable data to the Strata Regulator and prompt implementation of those statutory obligations. It would assist, for example, in assessing the extent to which government reform to encourage tenant participation on strata committees is being achieved and, if not, why not.

61. The “annual declaration/update” could also be used to prompt strata schemes to consolidate and register their by-laws – this is afoot but has not been completed by a large majority of schemes.

62. The primary goal is to create a direct channel of communication and basic data for the strata regulator and a buyer. It must be simple straightforward and up-loadable via an online portal at no or low cost by the Secretary or a strata agent (if delegated). To gain acceptance from these communities their information must not be able to be sold and what is to be publicly searchable must be limited and prescribed by regulation. The names of strata committee members could not be published and it would not be appropriate to require financial information.

Strata Check App

63. The idea of a ‘strata check app’ has been posed that might put information more easily into the hands of a buyer. There is merit in surveying consumers’ expectations. It is important that any tool that is promoted as an aid to ‘due diligence’ is understood to be a snapshot and not to be relied on solely. It could provide tips and prompts but the importance of a property inspection and strata report cannot be overstated.

64. The profile of users would also need to be taken into account: about 50 per cent of buyers are residents (not investors) spread across age groups, socio-economic status, ethnicity and language groups. In suburbs like Botany, Canterbury and Bankstown, for example, buyers are more likely to be new migrants with limited or no English and no experience of the Australian property market. These buyers and new residents often have no knowledge of residential strata living and have high information and support needs.

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65. The pressure of housing unaffordability also makes young buyers and new migrant families especially vulnerable and more likely to base a decision on price than any other factor, especially in a rising market. At the lower end of the market inexperienced first-time buyers are encouraged by first home buyer grants and low deposit guarantees. The 'strata check app' could encourage them to be wary, and to seek good advice before committing to the biggest financial decision of their life.

Conclusion

66. There is a compelling and undeniable case for establishing a Strata Register, which together with the "annual return/update" would fill an obvious void and support a number of objectives. While the rationale and benefits of this initiative are very worthwhile it must be handled with care. The system must be discreet, focused and designed to provide 'top level' data only. It must protect the privacy of the residential strata communities and their information must not be for sale. It should ultimately be linked to more robust and independent information and support to residential strata communities at the local level.

67. Ideally, this 'transparency initiative' will consider the needs of someone buying a strata property off the plan, newly completed or an apartment in an established residential strata community.

68. In the final analysis there is a limit to 'due diligence' and buyers, who pay significant amounts in stamp duty, expect the regulatory system to provide the assurance that the risk of building defects is low. However, buyers of new apartments can be assisted by systems that rate developers and builders and mandatory disclosures to ensure there more information in the market.

69. The OCN experience is that the entire strata sector is opaque, and, in our view, the economic supply and demand pressures of a healthy marketplace is lacking. The strata property environment is complex. The proposed strata registry and annual update is an initiative that will help to create greater transparency in the strata sector.

70. The registration of the strata plan could be the trigger for the first entry by LRS who would populate the system with the initial data. The requirement to file a notice of change and an annual update would ensure that the profile of the scheme and key data is kept up to date by the owners corporation.

71. This would provide the direct communication channel needed by government and some basic data. It would improve opportunities for research, including customer satisfaction surveys, the evaluation of regulatory reforms and investigation into industry practices to promote more openness and competition. It will also provide the foundation for any further dissemination of strata information using modern technology, easy access and mobile applications.

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Appendix A

Registered Strata Scheme [Original Owner, LRS]

Strata Plan Number	Date of Registration
Date of subdivision certificate under s.6.15 EPA Act.	
Developer	[Name of company, ACN]
Builder	[Name, ACN, registration, licence no.]
Certifier	[Name, ACN., registration, licence no.]
Date of Occupation Certificate	
Developer Bond	[link to searchable portal]
Type of Scheme	Residential Mixed Use
Number of Lots	Residential: Commercial:
Number of floors	
Facilities:	Swimming Pool Y/N [other fields]
By Law Prohibiting Short term letting by non-residents: Y/N	
By laws [link]	
Building manager	[name, ACN]
Strata manager	[name, ACN, licence no.]
Network Contracts:	[service, company, period of contract]

Annual Return/Update [Owners Corporations]

Strata Plan Number	Trading Name/Common Name		
Date of Annual General Meeting			
Chairperson, Secretary and Treasurer			
Building manager	[name, ACN]		
Strata manager	[name, CAN, licence no.]		
Number of Lots:	Owner Occupied:	Residential Tenant:	Short Term Let:
Short Term Letting By-Law		Y/N	
NABERS Rating:			
Current Fire Certificate	Y/N	Fire Order	Y/N
Strata Renewal Application	Y/N		
Compulsory Strata Manager	Y/N		

Condominium Act, 1998**ONTARIO REGULATION 377/17****CONDOMINIUM RETURNS**

Last amendment: O. Reg. 377/17.

This is the English version of a bilingual regulation.

DEFINITIONS**Definitions**

1. In this Regulation,

“annual return” means an annual return mentioned in paragraph 3 of subsection 9.2 (1) of the Act; (“rapport annuel”)

“electronic database” means the electronic database required by subsection 9.7 (1) of the Act; (“base de données électronique”)

“employ” means to employ, appoint, authorize or otherwise arrange to have another person act on one’s behalf, including as an independent contractor; (“employer”)

“initial return” means an initial return mentioned in paragraph 1 of subsection 9.2 (1) of the Act; (“rapport initial”)

“transitional return” means a return described in section 6; (“rapport transitoire”)

“turn-over return” means a turn-over return mentioned in paragraph 2 of subsection 9.2 (1) of the Act. (“rapport de transfert des pouvoirs”)

RETURNS**Contents of all returns**

2. (1) An initial return, a turn-over return, an annual return and a transitional return shall each contain the following information in respect of the corporation as of the date of delivery of the return:

1. The date of the registration of the declaration and description.
2. The name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act.
3. The type of corporation as described in subsections 6 (1) and (2) of the Act.

Note: On the day subsection 9 (4) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, paragraph 3 of subsection 2 (1) of the Regulation is amended by adding “and whether the corporation is a phased condominium corporation” at the end (See: O. Reg. 377/17, s. 13 (1))

4. The address for service for the corporation.
5. The municipal address for the corporation, if any, contained in the declaration pursuant to clause 7 (2) (e) of the Act.
6. In the case of a corporation that is not a common elements condominium corporation, the total number of units in the corporation.
7. In the case of a corporation that is not a common elements condominium corporation, the total number of units in the corporation where the owner of the unit is not excluded from voting as a result of subsection 49 (3) of the Act.
8. In the case of a common elements condominium corporation, the maximum number of votes that could be counted at a meeting of owners under the Act, as determined in accordance with subsection (2).
9. For each director of the corporation, the name of the director and the effective date of the director’s election or appointment to the board.
10. The name and address for service of,

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- i. the condominium management provider, if any, with whom the corporation has entered into an agreement to receive condominium management services and the condominium manager who is employed by the provider and who provides the services, and
- ii. the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services and the condominium management provider, if any, that employs the manager.

11. The start date and the end date of the corporation's fiscal year.

(2) In determining the maximum number of votes that could be counted at a meeting of owners under the Act in the case of a common elements condominium corporation, subsections 42 (8), 49 (1) and 51 (1) and (6) of the Act do not apply.

(3) An initial return, a turn-over return, an annual return and a transitional return of a corporation may set out an electronic mail address for the corporation.

Initial return

3. (1) A corporation is not required to file an initial return unless the corporation is created on or after the day section 9.2 of the Act comes into force.

(2) In addition to the information that section 2 requires be contained in an initial return of a corporation, the return shall contain the name of the declarant in respect of the corporation as of the date of delivery of the return.

(3) A corporation required to file an initial return shall do so no later than 90 days after the corporation is created.

Turn-over return

4. (1) A corporation is not required to file a turn-over return unless the corporation holds a turn-over meeting under section 43 of the Act on or after the day section 9.2 of the Act comes into force.

(2) In addition to the information that section 2 requires be contained in a turn-over return of a corporation, the return shall contain the following information in respect of the corporation as of the date of delivery of the return:

1. The name of the declarant.
2. The date of the turn-over meeting held under section 43 of the Act in respect of the corporation.

(3) A corporation required to file a turn-over return shall do so no later than 90 days after the day the turn-over meeting to which the return relates is held and the owners elect a new board.

Annual return

5. (1) In addition to the information that section 2 requires be contained in an annual return of a corporation, the return shall contain the following information in respect of a corporation as of the date of delivery of the return:

1. A statement whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and if so,
 - i. the name and business address of the inspector or administrator, as the case may be, and
 - ii. the date of the order appointing the inspector or administrator, as the case may be.
2. The date of the last annual general meeting.

(2) A corporation shall file an annual return with the Registrar by,

- (a) no later than 90 days after the corporation is created, if it is created on or after January 1 and not later than March 31 in the year to which the return relates; or
- (b) March 31 of each year, but no earlier than January 1 of that year, if clause (a) does not apply.

Transitional return

6. (1) A transitional return is prescribed for the purposes of paragraph 4 of subsection 9.2 (1) of the Act.

(2) A corporation is not required to file a transitional return unless the corporation was created before the day section 9.2 of the Act comes into force.

(3) In addition to the information that section 2 requires be contained in a transitional return of a corporation, the return shall contain the following information in respect of the corporation as of the date of delivery of the return:

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1. If the corporation has not held a turn-over meeting under section 43 of the Act, the name of the declarant.
 2. A statement whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and if so,
 - i. the name and business address of the inspector or administrator, as the case may be, and
 - ii. the date of the order appointing the inspector or administrator, as the case may be.
 3. The date of the last annual general meeting.
- (4) A corporation required to file a transitional return shall do so by March 31, 2018.

Notice of change

7. (1) The following information is prescribed for the purposes of clause 9.3 (1) (b) of the Act:

1. Every change in the address for service for the corporation.
2. Every change in the electronic mail address for the corporation if the corporation submitted an electronic mail address in the return that it has most recently filed under Part II.1 of the Act.
3. In the case of a corporation that is not a common elements condominium corporation, every change in the total number of units in the corporation.
4. In the case of a corporation that is not a common elements condominium corporation, every change in the total number of units in the corporation where the owner of the unit is not excluded from voting as a result of subsection 49 (3) of the Act.
5. In the case of a common elements condominium corporation, every change in the maximum number of votes that could be counted at a meeting of owners under the Act, as determined in accordance with subsection 2 (2).
6. For every change in the directors elected or appointed to the board, the effective date on which the change occurred.
7. Every change in,
 - i. the condominium management provider, if any, with whom the corporation has entered into an agreement to receive condominium management services or the condominium manager who is employed by the provider and who provides the services, or
 - ii. the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services or the condominium management provider, if any, that employs the manager.
8. Every change in the address for service of,
 - i. the condominium management provider, if any, with whom the corporation has entered into an agreement to receive condominium management services or the condominium manager who is employed by the provider and who provides the services, or
 - ii. the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services or the condominium management provider, if any, that employs the manager.
9. Every change in the statement made regarding whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and every change in the name and business address of the inspector or administrator, as the case may be.
10. Whether the corporation has sent, for registration, a notice under subsection 122 (1) or 123 (7) of the Act terminating the government of the property by the Act to the land registry office in which the description of the corporation is registered.
11. Whether the corporation has sold the property and has complied with subsection 124 (3) of the Act.
12. Whether the corporation has received a notice of intention to expropriate the property under the *Expropriations Act*.
13. Whether the corporation has made an application under subsection 128 (1) of the Act or commenced any other legal action for an order described in subsection 128 (2) of the Act.
14. Whether the corporation has received written notice of an application under subsection 128 (1) of the Act or any other legal action for an order described in subsection 128 (2) of the Act.
15. In the case of a leasehold condominium corporation,

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- i. whether the corporation has received written notice of an application described in subsection 173 (2) of the Act or any other legal action for an order described in subsection 173 (1) of the Act,
- ii. whether the corporation has received a written notice of intention not to renew all the leasehold interests in the units in the corporation, as described in clause 174 (1) (b) of the Act, or
- iii. whether the corporation has given a notice described in subsection 174 (6) of the Act to the lessor.

(2) The notice required for a change described in subsection (1) shall specify what changes have taken place and the dates of the changes.

(3) A corporation shall file a notice of change that is required under subsection 9.3 (1) of the Act with the Registrar no later than 30 days after the change occurs.

Manner of filing

8. (1) Subject to subsection (2), a corporation that is required to file a return or a notice of change shall deliver it to the Registrar electronically or by another method that the Registrar approves if the Registrar is of the opinion that delivering it electronically would cause undue hardship to the corporation.

(2) A return or notice delivered electronically shall be delivered in accordance with the procedures established by the Registrar.

Late filing fee

9. The late filing fee described in section 9.6 of the Act is payable if a corporation files a return or notice under Part II.1 of the Act after the time set out in this Regulation for filing it.

REGISTRAR'S DATABASE

Electronic database

10. (1) In maintaining the electronic database, the Registrar,

- (a) shall take reasonable measures to protect against unauthorized access to information contained in the database; and
- (b) shall establish policies regarding the removal of information from the database that is no longer current.

(2) For the purposes of clause 9.7 (1) (b) of the Act, the Registrar shall include the following information in the electronic database:

1. If the Registrar or the Licence Appeal Tribunal has made a compliance order under section 134.1 of the Act directing a corporation or a director or officer of that corporation to comply with any provision of Part II.1 of the Act and if there is no possibility of it being replaced under subsection 134.1 (5) of the Act,
 - i. the date that the order is made,
 - ii. the name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act,
 - iii. the name of the directors or officers of the corporation who the order directs to so comply,
 - iv. the provisions of Part II.1 of the Act that the Registrar or the Tribunal making the order believes on reasonable grounds that the corporation, director or officer has contravened, and
 - v. a description of the order.
2. If the Registrar determines that, in respect of a corporation, the Act has ceased to govern the property, a statement that the corporation no longer exists.

No publication of database

11. The Registrar is exempt from subsection 9.7 (2) of the Act.

Note: On April 1, 2018, section 11 of the Regulation is revoked and the following substituted: (See: O. Reg. 377/17, s. 13 (2))

Publication of database

11. (1) For the purposes of subsection 9.7 (2) of the Act, the Registrar shall make the following information about every corporation contained in the electronic database available to the public:

1. The name of the declarant.
2. The date of the registration of the declaration and description.
3. The name assigned to the corporation under subsection 27 (3) of Ontario Regulation 49/01 (Description and Registration) made under the Act.
4. The type of corporation as described in subsections 6 (1) and (2) of the Act.

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Note: On the day subsection 9 (4) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* comes into force, paragraph 4 of subsection 11 (1) of the Regulation is amended by adding “and whether the corporation is a phased condominium corporation” at the end. (See: O. Reg. 377/17, s. 13 (3))

5. The address for service for the corporation.
6. The municipal address for the corporation, if any, contained in the declaration pursuant to clause 7 (2) (e) of the Act.
7. In the case of a corporation that is not a common elements condominium corporation, the total number of units in the corporation.
8. In the case of a corporation that is not a common elements condominium corporation, the total number of units in the corporation where the owner of the unit is not excluded from voting as a result of subsection 49 (3) of the Act.
9. In the case of a common elements condominium corporation, the maximum number of votes that could be counted at a meeting of owners under the Act, as determined in accordance with subsection 2 (2).
10. For each director of the corporation, the name of the director and the effective date of the director’s election or appointment to the board.
11. The name and address for service of,
 - i. the condominium management provider, if any, with whom the corporation has entered into an agreement to receive condominium management services and the condominium manager who is employed by the provider and who provides the services, and
 - ii. the condominium manager, if any, with whom the corporation has entered into an agreement to receive condominium management services and the condominium management provider, if any, that employs the manager.
12. The start date and the end date of the corporation’s fiscal year.
13. A statement whether there is currently an order of the Superior Court of Justice in effect appointing an inspector under section 130 of the Act or an administrator under section 131 of the Act and if so,
 - i. the name and business address of the inspector or administrator, as the case may be.
 - ii. the date of the order appointing the inspector or administrator, as the case may be.
14. The date of the last annual general meeting.
15. The information described in paragraph 1 of subsection 10 (2) until the corporation, director or officer has complied with the order mentioned in that paragraph.
16. The information described in paragraph 2 of subsection 10 (2). O. Reg. 377/17, s. 13 (2).
 - (2) Subject to subsection (3), for information that a corporation is required to include in an annual return, the Registrar shall make available to the public under subsection (1) only the information that is contained in the return that the corporation has most recently filed under Part II.1 of the Act. O. Reg. 377/17, s. 13 (2).
 - (3) If a corporation has filed a notice of change under section 9.3 of the Act for any information listed in subsection (1), the version of that information that the Registrar is required to make available to the public under that subsection shall be the information as updated by the notice of change. O. Reg. 377/17, s. 13 (2).
 - (4) The Registrar shall make available to the public the information that this section requires the Registrar to make available to the public by,
 - (a) posting it on the Internet on the website of the condominium authority; and
 - (b) using any other means that the Registrar considers appropriate. O. Reg. 377/17, s. 13 (2).
 - (5) The Registrar shall not disclose in bulk to any person the information that this section requires the Registrar to make available to the public except as authorized under subsection 9.8 of the Act. O. Reg. 377/17, s. 13 (2).
 - (6) The Registrar shall not make available to any person the information that this section requires the Registrar to make available to the public unless the person has agreed to use the information for personal purposes only. O. Reg. 377/17, s. 13 (2).

Summaries or analyses

11.1 (1) The Registrar may publish summaries or analyses of the data contained in the electronic database for non-commercial purposes only. O. Reg. 377/17, s. 13 (2).

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(2) The summaries or analyses mentioned in subsection (1) shall not contain information about an identifiable corporation. O. Reg. 377/17, s. 13 (2).

Confidentiality

12. The following is a prescribed entity or organization for the purposes of clause 9.8 (c) of the Act:

1. The administrative authority within the meaning of the *Condominium Management Services Act, 2015*.

13. OMITTED (PROVIDES FOR AMENDMENTS TO THIS REGULATION).

14. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).

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APPENDIX C

Summary of Information Required for Condo Returns and Notice of Change

For detailed information on condo returns and notices of change, please see the [Condominium Act, 1998](#) and [O. Reg 377.17](#)

Information Required	Initial Return	Turn-over Return	Transitional Return	Annual Return	Notice of Change	Displayed in Public Registry
Registration Date of declaration and description at the land registry office						
Corporation Legal Name assigned by land registrar ss27(3) of O. Reg 49/01						
Type of Corporation <ul style="list-style-type: none"> • Freehold or Leasehold • Standard, Common Elements or Vacant Land • Phased 						
Address for Service for corporation						
Email Address for Service for corporation						
Municipal Address, if any, contained in the Declaration						
Total Number of Units (does not apply to common elements corporations)						
Total Number of Voting Units (does not apply to common elements corporations)						
Maximum Number of Votes - for common elements corporations only – (ss 42(8), 49(1) and 51(1) and (6) do not apply)						
For Each Condo Director: Name and Effective Date of Election/Appointment						
Name and Address of Service for any: <ul style="list-style-type: none"> • Condo Management Company under contract with 						

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Information Required	Initial Return	Turn-over Return	Transitional Return	Annual Return	Notice of Change	Displayed in Public Registry
<p>corporation, as well as any condo manager employed by the company who provides the services.</p> <ul style="list-style-type: none"> • Condo Manager (individual) under contract with corporation. 						
Corporation Fiscal Year Start and End Dates						
Name of the Declarant as of date of filing return			Only if corporation hasn't held a turnover meeting.			
Date of the Turn-over Meeting , if held on or after January 1, 2018						
A Statement whether there is currently an Order of the Superior Court of Justice (SCJ) in effect appointing an inspector under s. 130 or administrator under s. 131.			<p>If SCJ order:</p> <ul style="list-style-type: none"> • Name/business address of inspector/administrator • Date of the SCJ order 			
Date of last Annual General Meeting						
Whether the corporation has sent, for registration to the land registry office, a notice under ss 122(1) or 123(7) terminating the government of the property by the <i>Condominium Act, 1998</i> .						
Whether the corporation has sold the property and complied with ss 124(3) of the <i>Condominium Act, 1998</i> .						
Whether the corporation has received a notice of intention to expropriate under the <i>Expropriations Act</i> .						

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Information Required	Initial Return	Turn-over Return	Transitional Return	Annual Return	Notice of Change	Displayed in Public Registry
Whether the corporation has made (or received notice of) an application under ss 128(1) or any other legal action for an order under ss 128(2)						
<p>In the case of a leasehold corporation only:</p> <ul style="list-style-type: none"> • whether it has received written notice of an application described in subsection 173 (2) or any other legal action for an order described in subsection 173 (1) of the <i>Condominium Act, 1998</i>. • whether it has received a written notice of intention not to renew all the leasehold interests in the units in the corporation, as described in clause 174 (1) (b) of the <i>Condominium Act, 1998</i>. • whether it has given a notice described in subsection 174 (6) of the <i>Condominium Act, 1998</i> to the lessor. 						
Compliance Orders - The CAO will provide information for any compliance orders issued against the corporation to be displayed on the Public Registry.						

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ⁱ For example, no agency is tracking the trend in the strata management industry to integrate with other service providers and the obvious conflicts of interest that creates for consumers. There is no dedicated independent or government information and support service to assist new owners corporations or their newly elected strata committee.

ⁱⁱ The new e-planning portal, spatial mapping and the econstruction systems will also increase free access to core information but these systems are not designed for ordinary consumers and do not cover all the relevant information about reputation and building quality or attributes of a residential strata scheme that is relevant to the purchase decision <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address>

ⁱⁱⁱ <https://www.smh.com.au/national/nsw/cladding-list-kept-secret-amid-demands-for-action-on-construction-crisis-20191104-p537dg.html>

^{iv} Macquarie Bank Strata Management Benchmarking Report 2019.

^v This is been very evident in the way that companies like Airbnb have be able to facilitate the illegal subletting of thousands of urban apartments in breach of planning law and by laws despite significant opposition from resident owners.

^{vi} Free choice does not operate in the housing market in the same way as other goods and services because housing is not discretionary and is inelastic: people must live close to work, schools and transport and their families.

^{vii} The web-based company 'Strata Options' is not a price comparator it is a contract aggregator; an owner corporation can use the site to access several strata management companies for quotes.

^{viii} *Poor records on strata can blur building defects*, Australian Financial Review, Thursday, 1 August, 2019, p.38; For example, internal discussion and initial cost estimate of a rectification matter (e.g. concrete cancer in an underground storage area) in an older established scheme may not appear in the minutes until a strata committee has made a decision or a formal meeting has been held

^{ix} For example, a two-lot scheme is exposed to domination by a single lot owner. The resident lot owner has no power to prevent short term letting by a non-resident owner.

^x <https://www.ontario.ca/laws/regulation/170377>

^{xi} For example, a scheme member of OCN has a high percentage of illegal short term letting in violation of a development consent condition. The strata roll of the new building is incomplete which is frustrating communication within the scheme and, in this case, efforts to enforce the DA and by law.