

Discussion Guide

Consultation on Enhancements to Registrar Bulletin 18 and 19 - Condominium Projects Designs, Field Review Reporting, and Residential Condominium Conversion Projects

Tarion is seeking public input on proposed changes to two condominium related bulletins to enhance reporting obligations for builders before and during construction, allow for earlier identification and resolution of warranty defects, and better support condominium corporations in their role of managing the condominium.

Registrar Bulletin 18 - Residential Condominium Conversion Projects (RB18) outlines the reporting requirements for builders related to a residential condominium conversion project, including the approval process, eligibility for coverage, and the condominium corporation fund for pre-existing elements.

Registrar Bulletin 19 - Condominium Projects Designs and Field Review Reporting (RB19) sets out the requirements for reports and information that builders of condominium projects must provide to Tarion, to mitigate warranty claim risk during the design and construction of a new condominium project. The RB19 process helps to ensure potential deficiencies are addressed during construction, improving the quality of the finished condominium, and minimizing the potential for costly warranty claims and issues for the purchaser after construction.

Tarion is seeking public input on proposed changes to RB18 and RB19, specifically:

- Creating a new requirement for a third-party commissioning report on mechanical and plumbing equipment to better protect Condominium Corporations from possible issues after registration.
- Addressing potential risks about the building envelope and internal containment by increasing Scope of Work (SOW) requirements, and additional reporting requirements on Field Review Consultants (FRCs) to improve the quality of new condominium construction.
- Clarify the FRCs role and mandate by creating a governance agreement for FRCs, new reporting and documentation requirements, and removing areas of interpretation and vagueness in the bulletin to enhance the FRC's ability to have concerns addressed sooner and reduce possible defects.
- Improve FRC qualifications and performance by better defining FRC qualifications, what types of projects they can work on, and changing how Tarion grants and reviews FRC status.
- Develop a modified RB19 process to better define project types under Part 9 of the Ontario Building Code (OBC), reflecting their possible complexity, and improve protection for purchasers of those types of homes.
- Build flexibility into the bulletin to allow Tarion to adjust risk areas and ensure homeowners continue to receive well built homes as technology, building materials, and/or practices change.
- Enhancing RB18 to address gaps in the current bulletin including new testing and surveys during construction, and clear language for requirements for condominium conversion projects.

You can find greater details about the proposed changes below.

Please complete the consultation survey or review the consultation questions found in this document and **submit any feedback on the proposed changes to submissions@tarion.com by September 9, 2024.**

While this consultation focusses on specific proposed changes and questions, if you have additional comments, please send them to submissions@tarion.com. Please title these with the subject "Additional Submissions". Tarion recognizes that not every topic will be relevant to each individual or organization. Please provide comments on the topics that are relevant to you or your organization.

Common Terms and Definitions

Below are some frequently used terms which readers of this discussion guide might find helpful:

Ontario New Home Warranties Plan Act (ONHWPA) – is the legislation and supporting regulations which empower Tarion to administer the new home warranty program and describe the new home warranty plan, including the coverage and the requirements for builder and vendor registration and enrolment of homes.

Common Elements (CE) - the Common Elements of a condominium corporation which are eligible for statutory warranties and for greater certainty excludes the Common Elements of a Common Elements condominium corporation or of a Vacant Land condominium corporation as described in s.15(c) of Act.

Condominium Project – is the lands and interests appurtenant thereto that are described or proposed be described in any description required by the Condominium Act and which include or are proposed to include units to be used as “homes” as defined in the Act.

Field Review Consultant (FRC) – this is a consultant designated who is hired by the builder for the condominium project and who oversees the RB19 process.

Bulletin Qualification Status (BQS) – this is the standing given to an FRC who is qualified under this Bulletin to perform field review services for a builder.

Design Consultant - this individual is one or more duly qualified architects and/or engineers retained by the builder to provide services related to the design documents, construction documents and review of the construction in accordance with the Ontario Building Code and municipal requirements.

Building Envelope Consultant (BEC) - this individual is a qualified consultant and/or engineer retained by the builder to provide services related to the building envelope and related components, including masonry, cladding, roofing, insulation, and window walls.

Design and construction documents – these documents include, but are not limited to, print and electronic materials provided by the project’s design consultants responsible for authoring shop drawings and manufacturing of components.

Performance Audit – this means the performance audit of the Common Elements of the condominium project referred to in s.44 of the Condominium Act.

Ontario Building Code (OBC) – the Ontario Building Code is a set of minimum standards which builders must comply with to receive municipal approvals during construction and avoid warranty claims after construction.

Part 3 of the Ontario Building Code (OBC) – this section of the code outlines the requirements of large buildings.

Part 9 of the Ontario Building Code (OBC) – this section of the code outlines the requirements of small buildings and homes.

Exterior Insulation Finish System (EIFS) – this is a cladding that incorporates a stucco like exterior finish, insulation, drainage and moisture protection.

Background and Context

[Registrar Bulletin 19 - Condominium Projects Designs and Field Review Reporting \(RB19\)](#) sets out the requirements for reports and information that builders of condominium projects must provide to Tarion through Field Review Consultants (FRCs). Specifically, this bulletin sets out the requirements for builders to mitigate warranty claim risk during the design and construction of a new condominium project. By proactively identifying, reporting and resolving construction deficiencies builders can reduce future warranty claims, higher repair costs, lengthy repairs and ultimately, better manage the associated financial liability.

Tarion has been reviewing the effectiveness of RB19 with the goal of revising the bulletin and identifying new ways to ensure it accomplishes its goal of reducing and mitigating risks throughout the construction of condominium projects and increases the overall confidence new home buyers have in the condominium industry. Tarion is also exploring additional builder and FRC education related to risk mitigation and quality assurance to increase the effectiveness of the bulletin.

For Tarion's purposes, Condominium projects are broken down into 4 Categories - Type A, B, C, and D – and these projects can broadly be defined as:

- Type A and B projects are the low-rise townhouse style projects, generally consisting of up to three stories, constructed within Part 9 of the Ontario Building Code (OBC);
- Type C projects are low-rise projects, generally consisting of three stories, constructed with a combination of Part 3 and Part 9 of the OBC;
- Type D projects are mid-rise / high-rise projects, generally consisting of over three stories, constructed under Part 3 of the OBC.

RB19 generally applies to Type C and D Condominium projects and requires mandatory reporting requirements within the province of Ontario. Historically, RB19 reporting for Type A and B projects was strictly voluntary, unless included as a part of a Type C or D project. However, Tarion recently imposed RB19 reporting requirements for Type A or B projects for more complex designs and/or higher risk potential.

The Field Review Consultant (FRC) on a project is qualified by Tarion and hired by the builder to provide mandatory reporting on key risk areas of a condominium project as required by RB19. FRCs are confirmed by Tarion as qualified by applying for and receiving Bulletin Qualification Status (BQS), which means they are qualified under this Bulletin to perform field review services for a builder. FRCs follow the RB19 reporting requirements in order to identify construction deficiencies and risks to Tarion, the condominium corporation and the builder.

In conducting the initial review and analysis of how to improve RB19 and the FRC process, Tarion used several different methods:

- Tarion reviewed claims data from 2015-2020 and compared those with RB19 risk areas identified in the current bulletin for the purpose of identifying gaps or deficiencies in the risk areas of RB19 and FRCs reporting.
- Tarion engaged a number of condominium stakeholders, including advisory councils and FRCs, and conducted a survey targeted at a mix of condominium board members, condominium managers, and performance auditors, focused on better understanding what issues are affecting owners shortly after registration of the condominium and turnover.

- Finally, Tarion reviewed the Claims Experience Workbook published in 2019 by ProDemnity (the Architects Liability Insurance), which provided information about what triggered claims most often, which building types were involved and which roles in the design team were involved in claims matters.

Additionally, in 2022, changes to the Ontario Building Code (OBC), specifically for Early Occupancy and Modular and Encapsulated Mass Timber Construction, required the creation of Supplemental Requirements and documentation for RB19. This was done as a temporary measure until the review and changes to RB19 could be completed. Through discussions with stakeholders and reviewing claims data, Tarion has determined that the RB19 process, including documentation and modules provided by Tarion, needs more clarity. This includes updates and clarification on:

- what needs to be reviewed and understanding what is required by RB19,
- adding additional required risk areas,
- aligning with OBC changes,
- simplifying of modules,
- clear definitions of terms used, and
- clarity around mock-ups, window testing, balcony guard rail testing and the specific reporting procedure to be submitted to Tarion.

[Registrar Bulletin 18 - Residential Condominium Conversion Projects](#) (RB18) outlines the reporting requirements for builders related to a residential condominium conversion project, including the approval process, eligibility for coverage, and the condominium corporation fund for pre-existing elements.

Following the implementation of RB18 in January of 2018, Tarion has been administering this new process. As mentioned earlier, RB18 outlines the reporting requirements for builders related to a residential condominium conversion project. Currently there are approximately 45 Residential Condominium Conversion Projects (RCCP) qualified for enrolment. Interactions with stakeholders and consultants on the preparation and approval of RCCPs required reports has identified a few areas within the RB18 that will benefit from clarification and make the RCCP qualification process smoother.

Tarion is now looking at changes in the following seven areas of focus:

RB19:

1. [Mechanical and Plumbing Review](#)
2. [Building Envelope and Internal Containment Review](#)
3. [FRC Role and Timing of Engagement](#)
4. [FRC Performance and Qualifications](#)
5. [Projects Falling Under Type A and B](#)
6. [Emerging Risks](#)

RB18:

7. [Residential Condominium Conversion Projects](#)

Part 1 – Mechanical and Plumbing

Through the review process, Tarion found that RB19 is too limited and vague in the area of Mechanical and Plumbing System risks. Tarion does not feel that field reviews of these risk areas is substantive enough and leaves the responsibility with the engineer of record for the mechanical design, and mechanical contractor for the proper setup and operation of the mechanical systems for the building. Tarion has found that we cannot rely on the current process to ensure systems are designed and installed correctly.

Additionally, a number of FRC firms approved by Tarion do not have direct mechanical system expertise, and requiring all FRC firms to have the required knowledge would impact the availability of FRC's to meet the current demand and impact the review of other risk areas.

Therefore, Tarion is considering requiring commissioning reporting to ensure that qualified third parties review and sign-off of these important systems and components and will require the creation of specific guidelines to ensure there is no duplication of testing that is being carried out in other risk areas.

Proposed Updates:

- Tarion is proposing to require a third-party commissioning agent to provide commissioning reports of all Mechanical and Plumbing equipment installed in Type D buildings to ensure all parts are working as required and designed which:
 - would be part of the documents required to be included in the RB19 Final Report, and
 - must include the FRC on the construction project team email distribution list thus confirming they receive all monthly site reports from the mechanical designer in order to track any noted deficiencies.
 - The commissioning agent is third-party, and not associated with the mechanical or plumbing design consultant or contractor.
 - Commissioning would start with design review and include rough ins, installation, and operation of systems. Commissioning plan required.

Stakeholder Impacts:

Condominium Corporations

- This change may result in a decrease in common element claims for the condominium. Unit owners should also benefit from reduced claims related to their unit mechanical systems.

Builders

- Due to increased reporting requirements, these changes could create an increased administrative cost to the builder. However, builders will benefit from reduced potential defects and possible claim amounts later on with mechanical and plumbing issues (such as plumbing leaks, lack of hot water, A/C issues, lack of heat etc.) as deficiencies will be avoided.

Tarion

- Tarion will benefit from improved reporting and better risk management.

Other Stakeholders

- Performance Auditors will benefit by having a third-party report on the operation of the mechanical and plumbing systems which can be used for their reporting.
- Additionally, the commissioning reporting may be helpful to the Municipality to support municipal reviews and approvals for these systems.

Questions for Stakeholders to Consider:

1. Do these proposals adequately address the current issues with ensuring mechanical and plumbing systems are installed correctly, as designed?
2. Do you have any other feedback on the proposed changes?

Part 2 – Building Envelope and Internal Containment

Typically, issues related to water penetration represents over 25% of all common element items assessed and warranted by Tarion when we combine all symptoms of the issue (i.e., issues with waterproofing, windows, EIFS, and exterior sealants) – which is a significant number of issues allowing water ingress into buildings and/or homes.

It was noted in the ProDemnity Claims Workbook that “Claims in Multi Unit Residential Buildings were driven mainly by water damage, “other design” matters or oversights identified in the technical audits”. Tarion’s own emergency process deems water penetration into the home or common elements an emergency to be dealt with immediately, therefore significant benefits for consumers can be gained with the strengthening of these risk areas.

One issue identified in the review process was that the current Level of Effort and Scope of Work Modules (required as part of the RB19 process) may not provide enough detail in what Tarion is asking to be reviewed. This means that an FRC is not on site enough to catch things that can go wrong.

Having a Building Envelope Consultant (BEC) as part of the design team was considered, as they cover the review of all aspects of the entire envelope and can also work with the architect as an independent consultant for window wall endorsements required by their insurance policy. However, there is potential conflict regarding design responsibility with requiring a separate BEC in addition to the FRC and architect.

Regarding containment risk, this generally covers the fire separations, smoke seals, and the materials used in the construction of that assembly and a very critical part of the safety of occupants within the building when a fire breaks out. While currently a FRC will carry out inspections related to containment, Tarion has seen a number of claims related to this area and improvements to the field reviews are necessary to integrate new Ontario Building Code requirements (i.e., Smoke Control and S1001 Integrated testing) to provide owners the necessary documentation to meet future municipal requirements and decrease potential risks to the safety of the homeowners and fire fighters.

Additionally, the work carried out in some of these risk areas is done by a specific trade and specific reports are prepared at the completion of the work (i.e., a Fire Alarm Verification Test Report) and but should still be reviewed by the FRC to confirm there are no outstanding deficiencies and if there are they need to be identified in the RB19 Final Report.

Proposed Changes:

Tarion is proposing to make the following changes to properly address the issues identified, including:

- Increase FRC document and field review requirements in all related building envelope risk areas of the Scope of Work (SOW) with the added changes made to the level of effort including mandatory drawing review. This will require a senior consultant with building envelope experience to be part of the FRC’s staff. If an FRC does not have appropriate staff to carry out this additional level of review, they can hire a Building Envelope Consultant to assist them. This will reduce any conflict between design consultants. Alternatively, Tarion is considering requiring a third-party BEC to take responsibility for increased envelope review.
- Require that the FRC is present at consultant meetings, and other communications, to ensure they are part of the conversation on building envelope discussions and other issues that may arise.

- Increase FRC field review requirements in the Fire Safety Risk areas in the SOW and in the Notional Building Guidelines for Level of Effort. The change in field review will include the review of every suite and corridor and the inspection will be a preboard inspection and the final verification reports for relevant risk areas will be required to be provided as part of the Final RB19 document. This will include a checklist review to clarify what Tarion is looking to have reviewed as a minimum. This will also assist in the review of other risk areas where more reviews are being added to the bulletin.
- Add two additional risk areas within Fire Safety Systems Category - Smoke Control (5.5) and S1001 Integrated testing (5.6).
- The final verification reports for risk areas 5.3, 5.4, 5.5, and 5.6 will be required to be provided as part of the Final B19 document.
- Increase the requirements of and confirmation of Mock-ups to ensure trades are aligned with consultants' directions.

Stakeholder Impacts:

Condominium Corporations

- Regarding Building Envelope, this change should result in a decrease in common element claims for the condominium. Regarding Fire Safety, this change will benefit corporations greatly as smoke control and integrating testing plans will be established and available.

Builders

- Due to increased reporting requirements, these changes could create an increased administrative burden on the builder. However, builders will benefit from reduced deficiencies and possible claim amounts later from potential water penetration or other issues, as deficiencies will be avoided.

Tarion

- Tarion will benefit from improved reporting and better risk management.

Other Stakeholders

- The addition of mandatory BEC requirements to the FRC role may lead to disagreements on who is responsible for various components design between the FRC and the architect. Some projects also have separate BECs involved.
- If an BEC is required as part of the consultant design team, the FRC would not be able to act as both the FRC and the BEC.

Questions for Stakeholders to Consider:

3. Will the increased requirements for building envelope experience be problematic and/or negative to the review process?
4. Does requiring a Building Envelope Consultant as part of the consultant team create any challenges?
5. Are there any concerns with the new requirements regarding fire safety/containment?
6. Do you have any other feedback on the proposed changes?

Part 3 – FRC Role and Timing

Through the review process there were a number of issues and challenges identified as it relates to a FRC's role, their relationship with the vendor/builder (VB), and the timing of how they are engaged in the process.

Currently, there is a contractual obligation between the VB and FRC, and the FRC is bound to report accurately and honestly to Tarion. However, this could be seen to create a conflict of interest that compromises the independence of the FRC.

FRCs need to be authorized to identify deficiencies to Tarion, and need tools to ensure that concerns that are raised are addressed. When serious issues are reported the FRC needs to follow these items through to completion and Tarion needs to improve the consistency of FRC reporting to ensure an adequate threshold for reporting and deficiencies are resolved. Tarion could improve clarity by better defining "deficiency" for reporting purposes and improve VB education on the importance and purpose of the RB19 process and deficiencies being identified early and being resolved sooner.

Tarion has seen evidence of this with some Final RB19 Reports submitted and indicating that there are zero deficiencies with the project at the end of construction – when there were in fact deficiencies later identified.

Additionally, Tarion has identified instances where a builders' lack of payment can cause an FRC to cease reporting and attending site which creates a potentially adverse effect of possible key construction being missed or covered.

Finally, Tarion has found that FRCs are not being engaged early enough in the process by the VB. In many cases the FRC can catch deficiencies on paper, before they have started construction (i.e., building envelope reviews) but this is only possible when the VB engages the FRC at an early stage. While some VBs do engage the FRC early, in general the FRC is brought in too late to contribute to the design from a risk mitigation perspective.

Proposed Changes:

To improve the clarity of the FRCs role and mandate, Tarion is proposing:

- To make the RB19 reporting and testing requirements clearer, and where possible, we will remove areas of interpretation and vagueness. As an example, currently Risk area 3.2.5 of the Level of Effort and SOW states "Provide field mock-up of EIFS for review prior to installation"; however, currently there is no requirement or mechanism to provide Tarion with a report confirming this mock-up is carried out.
- Tarion will develop a governance agreement to lay out the requirements for FRCs as part of their Bulletin 19 Qualification Status (BQS) and ongoing reviews.
- Require the FRC to provide their successful RB19 proposal to Tarion with the Scope of Work for Tarion's approval to ensure all components are captured and if not, the builder must add any missing reviews to be included in the FRC's contract.
- The FRCs scope of work will be due to Tarion 90 days before the start of construction instead of 45.
- Insert a mandatory "Risk Tracking Spreadsheet" to the 60 day and Milestone reporting maintaining a consistent reporting mechanism. Deficiencies shouldn't be taken off reporting; they should be noted as fixed/corrected instead providing a path to resolution. Photos of completed repair are required.

- Changes to the 60-day report to provide a table for tracking the design consultants site reviews submitted to the FRC for review.
- Provide a process for the FRC to report/escalate serious issues to Tarion.
- Better define 'deficiency' and expand on education and value of B19 including training to FRCs on risk areas, and how deficiencies and risks related to incomplete work or work in progress should be reported.
- Provide a formal process to follow if a FRC is not being paid by a vendor/builder by inserting clear expectations in RB19 for prompt payment to be carried out by the vendor/builder to the FRC – and if not Tarion will provide payment through the held security.
- Restructuring of the Design Certificate to accommodate other consultants such as Interior Designers and BCIN designers as well as the responsibilities of the designers.
- Enhancing Final RB19 Report requirements to include more documentation and testing for Balcony Guard Rail Test, Balcony Guard Rail Shop Drawings, Sprinkler System Test, Fire Alarm Test Verification, Elevator TSAA Certificate, etc.
- The addition of a standard FRC Clearance document to be used in conjunction with the FRD deficiencies noted.
- Scope of work to have a master Design Certificate list as part of the FRC review.
- Include "General Requirements" category to the SOW in both Type A and B and Type C and D projects to capture drawing reviews, specified items, etc.

Stakeholder Impacts:

Condominium Corporations

- Condominium Corporations will have access to more relevant information via the Final B19 reporting. These changes will optimally result in better constructed condominiums and decrease common element claims for the condominium.

Builders

- Due to increased clarity in the reporting requirements, these changes could create an increased administrative burden on the vendor/builder. This should be offset by reduced deficiencies as a result of more up-front oversight.

Tarion

- Tarion will benefit from improved reporting and better risk management.

Other Stakeholders

- A more standardized process and requirements should create a level playing field amongst FRC firms who are bidding on proposals.
- Actions taken to ensure prompt payment will provide assurance to a FRC that Tarion supports them in the situation where payment for their services has been ignored.

Questions for Stakeholders to Consider:

7. Does this proposal adequately address the current concerns around potential FRC impartiality?
8. Are there additional measures Tarion could take to improve the FRCs independence or the bidding process?
9. Are there any concerns with the new timelines for engaging an FRC in a project?
10. Do you have any other feedback on the proposed changes?

Part 4 – FRC Performance and Qualifications

Through the review process there were a number of issues and challenges identified relating to the performance of FRCs, both through their qualifications and their reporting.

Tarion has found that the majority of Final RB19 Reports are consistently late with clearance letters or other required documentation missing, which causes additional delays. In some cases, the Final RB19 Report is delayed as the FRC is not aware that the project is registered, and the Declaration and Description is ready, which is the key required document for the Final RB19 Report preparation. In other cases, the Final RB19 Report is being held back while repairs are underway so that it is submitted with no deficiencies recorded.

As was mentioned in the previous section, builders seem reluctant to allow the FRC to submit deficiencies to Tarion and, in general, will try to clear all deficiencies prior to submitting the report. This defeats the purpose of the bulletin as the intent is to identify and address “risks” not penalize or otherwise evaluate the builder.

Due to B19 not being clear regarding reporting requirements, FRCs reporting can be inconsistent and in the absence of direction Tarion has found that many FRCs are reporting very minimally or based on their interpretation of the bulletin. This necessitates a change in process and the way FRCs are reporting into Tarion and requires revisions to RB19 to ensure FRC reporting includes not only the required review of construction, but also risk mitigation.

Tarion has determined there are also additional challenges in completing the Final RB19 Report, with FRCs reporting delays are often due to are waiting on vendor/builders to provide the design consultants clearance letters. An FRC has no contractual obligations with any of the other designers making it difficult to obtain information, and they are dependent on the vendor/builder to follow-up with the designers.

In conducting the review and speaking with various stakeholders, it is clear that not all FRCs are qualified to inspect all type of construction and there is value to determining what reporting is necessary within defined tiers or level of expertise of FRCs on a project – both in terms of complexity and specialty types of construction (i.e. mass timber).

Tarion has considered a review of the BQS application process with additional requirements to create a more standardized qualification to be considered for an FRC. In some cases, Tarion might need to enforce the use of a certain FRC with specific qualifications to ensure the requirements of RB19 are met.

Proposed Changes:

To improve the FRC performance and qualifications, Tarion is proposing:

- Create a new requirement for the Final RB19 Report to be provided directly by the FRC at 90 days after registration whether it is complete in its entirety or not. This includes looking at possible technology solutions to allow a FRC to digitally compile the Final RB19 document as it is prepared.
- Require Project Manager and Site Supervisor information to be provided on the SOW as the contact person who is responsible for understanding the importance of the required documents for the B19 Final Report.
- Requiring as part of Milestone Reports for both “Sub-structure complete” and “Super-structure complete” to have structural sign-offs and geo-technical consultant sign-offs, as that work would have been completed by that stage of construction.

- Require a Common Element Walkthrough to be completed by the FRC at end of construction which becomes an Appendix item in the B19 Final report and recorded on the Risk Tracking Sheet and Field Review Declaration. This will eliminate the B19 Final Report being submitted with no deficiencies.'
- Create the ability for Tarion to require a specific FRC for a given situation and/or give Tarion the ability to restrict FRCs to certain types of construction to match experience (e.g., mass timber).
- Define tiers of qualification (up to 6 stories, up to 10 stories, type of construction etc.) Tiers of qualifications can be based on based on FRC experience, type of construction, and size of project.
- Increase threshold of obtaining and maintaining FRC status (BQS), define escalating consequences for FRC performance, and mandatory formal feedback sessions at least once a year (or more as required) for feedback on reporting performance and vice versa.
- Change BQS renewal to an annual basis vs. 3 years based on the level of reporting provided or performance of the FRC firm. Requirements of the firms and/or individuals completing the B19 work need to be enhanced and the application form needs updating to include consequences of poor reporting.

Stakeholder Impacts:

Condominium Corporations

- Strengthening the requirements of RB19 for FRCs will lead to better reporting and less common element claims for the condominium.

Builders

- Due to increased reporting requirements, these changes could create an increased administrative burden on the vendor/builder.
- These requirements should ultimately lead to better built condominiums and reduced deficiencies.

Tarion

- Tarion will benefit from improved reporting and better risk management.

Other Stakeholders

- Newer or less experienced FRCs may not be approved to complete a certain type of review, and this will require detail on Tarion's part to investigate and ensure the expertise levels are correct and updated as required.
- This proposal may assist FRC firms in communicating training/education requirements to existing and possible employees.

Questions for Stakeholders to Consider:

11. Will these proposed changes improve the rate of Final RB19 Reports being submitted on time?
12. Are there additional challenges you see in FRCs submitting Final RB19 Reports at the required time?
13. Are there concerns about prohibiting some FRCs/Firms from working on projects which they do not have the qualifications to review?
14. Are there additional measures Tarion should consider when looking at evaluating an FRCs performance and BQS status?
15. Do you have any other feedback on the proposed changes?

Part 5 – Projects Falling Under Part 9 of the OBC

Tarion identified in the review process that RB19 needs to be re-structured so it can meet the demands of today's construction industry – specifically in dealing with new construction practices as applied in Type A and B projects (Part 9 low-rise). In the past Tarion has found it challenging when applying RB19 to Type A & B projects as these projects don't have the same consultant teams and defining key responsibilities is not always strait forward or possible. There can also be some confusion regarding what constitutes a Type B and a Type C, condominium, since there can be minimal differences.

Depending on the design and project details, these projects can create challenges (i.e., flat roofs, terraces, and cladding choices) which create a high degree of risk and will benefit from a modified RB19 reporting.

For example, a vendor/builder can break up very large projects with firewalls keeping them under Part 9 of the OBC, and therefore not require RB19 reporting, or smaller projects can introduce complicated details that if not constructed properly are likely to result in deficiencies.

Tarion has seen a notable increase in claims related to water penetration in Type A and B construction, and RB19 reporting, had it been required, would likely have caught some of these issues and reduced the number of deficiencies.

Proposed Updates:

Tarion is proposing to make the following changes:

- Develop a modified RB19 process to better reflect complicated projects under Part 9 of the OBC, including clarifying what reporting is required and which consultants are required;
- Clearly define what constitutes a Type B vs. Type C project;
- Revamp SOW for Type A and B to incorporate new risk areas and consultant requirements for this type of project, and focus on applicable risks such as water penetration, cladding, balconies, complex designs (stacked towns), acoustics, fire stopping etc.

Stakeholder Impacts:

Condominium Corporations

- Condominium Corporations of Type A & B condos should have comfort that additional reviews during construction are occurring and deficiencies are more likely to be caught and addressed earlier. They would also have the benefit of a Final B19 document to assist in the Performance Audit review.

Builders

- Due to increased reporting requirements, these changes could create an increased administrative burden to the vendor/builder.
- However, builders will benefit from reduced deficiencies and mitigating possible claim amounts later due to review conducted during construction.

Tarion

- Tarion will benefit from improved reporting and better risk management.

Other Stakeholders

- Municipal officials may benefit from additional review of construction.

Questions for Stakeholders to Consider:

16. Will adding reviews under RB19 help both Tarion and builders of complex projects under Part 9 of the OBC to mitigate potential risk, resulting in better built condominiums?
17. Are there reasons for Tarion not to expand reporting for high-risk projects?
18. Should some level of B19 reporting occur on all Part 9 condominiums with common elements regardless of complexity?
19. Do you have any other feedback on the proposed changes?

Part 6 – Emerging Risks

As technologies improve and change, and with the increased pace of new systems and building materials, RB19 needs to be able to be flexible and adapt, as necessary to the realities of modern construction.

Currently, FRCs are asked to list new technologies that may pose a unique risk on the scope of work document, but as new construction materials and technologies are added to projects, Tarion does not have a mechanism to comprehensively track or record these properly and this determination is left up to the FRC or other parties to identify.

Additionally, in some instances, an FRC may not know what a potential or known risk may be for a new material or technology, which would result in that not being identified to Tarion.

To date, most of the known risk is based on Tarion's past experiences with deficiencies. Not all FRC's would know or be aware of most of these risks unless we inform them, and inclusion of a full drawing review to understand what may be included under this category would better capture these risks.

Proposed Updates:

Tarion is proposing to make the following changes:

- Build flexibility into RB19 to allow Tarion to adjust risk areas as technology/materials change.
- Provide an open format blank risk area (Risk Area 12) to be populated by the FRC based on the new technology or for particular risks incorporated into the design of the project, similar to Condominium Conversion Projects, and require a targeted action plan from the FRC on their approach to de-risking the item (e.g., building over a subway or a deep foundation in a high-water table).
- Tarion would require FRC's to provide drawing review reports as part of the RB19 process, which would support the above proposal to require FRCs to be involved in projects earlier.
- Additional Risk Category and Areas to be added to the bulletin to cover the construction of Modular Construction, Encapsulated Mass Timber Construction and Early Occupancy of Super Tall buildings.
- Separate out other key risks such as six storey wood midrise requirements.
- Require the reporting to be continuous without having two types of reporting paths, 60-day type and Milestone type. Specifically, when the milestone occurs it would now be called the 60-day substructure milestone complete, 60-day super structure milestone complete, 60-day 75 % building envelope milestone complete and 60-day building water milestone complete.

Stakeholder Impacts:

Condominium Corporations

- There is no material direct impact for Condominium Corporations.

Builders

- There could be a potential impact on builders from engaging the FRC in the process earlier to incorporate the drawing review.

Tarion

- Tarion will benefit from improved reporting and better risk management.

Other Stakeholders

- FRCs will benefit from being included in the process sooner and able to better cover manage risks
- There could be additional education/training requirements for FRC's to familiarize themselves with new technology/materials.

Questions for Stakeholders to Consider:

20. Are there challenges with adding flexibility to RB19 to address new technologies and/or building materials?
21. What additional measures could Tarion consider to mitigate these risks?
22. Are there any concerns with requiring FRC's to have conducted a full drawing review?
23. Do you have any other feedback on the proposed changes?

Part 7 – Residential Condominium Conversion Projects (RB18)

Application of Warranty

Registrar Bulletin 18 (RB18) outlines the reporting requirements for builders for a residential condominium conversion project. RB 18 currently indicates that the warranties will only extend to conversions from non-residential uses (e.g., office, commercial, institutional); however, there are instances under the statute where residential conversions would be eligible.

While RB18 references eligible uses, the prescribed uses in the regulations need to be referenced in the bulletin more specifically to indicate that in some situations residential to residential is covered. The bulletin should also provide examples of situations, including a rental residential that is extensively changed. The logic behind excluding rental residential was to limit a conversion of a finished apartment to a condominium with minimal work. In practice, Tarion is seeing many rental use buildings with significant changes proposed that are initiating eligibility and this should be reflected in this bulletin.

Freeze-Thaw Masonry Testing

A significant amount of residential condominium conversion projects have retained the exterior masonry walls either single, double or triple wythe wall. New architectural designs incorporating these heritage masonry walls could lead to premature degradation/deterioration due to risk of freeze-thaw cycle based on rain exposure or prolonged water exposure from leakage or ineffective drip flashings. Therefore, a freeze-thaw resistance testing and hygrothermal modelling/analysis must be completed for the newly insulated walls to verify which insulation type should be used to reduce the risk of potential future masonry deterioration. While this testing is not mandatory in Appendix B of RB18, Tarion is now requiring this testing on many projects.

In many instances, vendor/builders have already conducted this testing and provide it proactively. While it is an added cost for some, it is minimal given the costs that could be involved if a freeze/thaw cycle incident compromised a masonry wall under warranty.

Boundaries of New vs Existing

When a heritage or an existing building involves heavy renovation and/or structural restoration, there is a need to distinguish between what was the existing elements versus the new added elements for warranty coverage clarity purposes. It is not readily apparent when walls are closed, which components are new, and which are existing.

A basic diagram or plan identifying the relationship between new and old and included in the Pre-existing Elements Fund (PEF) study would be beneficial for both Tarion and the future condominium corporation. This is a relatively small exercise, and it should not be difficult for a vendor/builder to develop this plan.

Documentation Clarifications

Currently the RB18 indicates two different times in which the Pre-Existing Element Fund is required to be funded. One is prior to construction, and one is prior to approval of the Property Assessment Report, Capital Replacement Plan, and Pre-Existing Element Fund Study. This creates confusion for the reader.

There is also currently a discrepancy on the length of the initial period. The Appendix D table identifies it as five years, when it should be seven years to be consistent with the duration of the warranty. This creates confusion for the reader.

Proposed Updates:

To improve RB18, Tarion is proposing:

- For clarity, include construction reporting requirements for RCCPs within RB19 to ensure consistency across the documents.
- Modify the language in the bulletin regarding residential exclusions to be consistent with the language in ONHWPA and regulations, and clarify rental exclusion when extensive changes are made, including providing examples.
- Include Freeze-Thaw resistance testing and Hygrothermal modelling/analysis for Pre-Existing Masonry Walls in Appendix B.
- Introduce a requirement for a survey of pre-existing vs new elements when required by Tarion.
- Remove requirement to fund PEF before the PAR/CRP/PEFS are approved. Adjust Appendix D to indicate 7 years instead of 5 years.

Stakeholder Impacts:

Condominium Corporations

- Additional testing and a survey of new vs. existing fixtures will benefit the condominium corporation and help owners better understand what they are purchasing. This should increase confidence that a thorough review has taken place as part of the RB18 process.

Builders

- Having more clarity in the bulletin on warranty application will help builders navigate requirements in this relatively new process. Although there is cost for additional testing, most vendor/builders already commission freeze-thaw testing and provide it proactively. The assurance that testing provides outweighs the risk of a future failure. Preparing a survey is also a minimal exercise that should not have any significant impacts.

Tarion

- Tarion will benefit from clarity in the document when applying warranty. Additional testing will reduce risk exposure for masonry walls.

Other Stakeholders

- Performance Auditors will benefit by having additional reporting and surveys to increase clarity when preparing the performance audit.

Questions for Stakeholders to Consider:

24. Will these changes and requirements adequately address the challenges with Registrar Bulletin 18?

25. Do you have any other feedback on the proposed changes?