
Memorandum

Date: 11 June 2026
To: Simon Mitchell, Acting Head of Policy, Australian Institute of Company Directors
From: Pamela Hanrahan
Subject: Directors' Personal Information
Our Ref: D8628
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1 Context

This note contains my advice on the Treasury Laws Amendment (Business Registries Stabilisation and Uplift) Bill 2026 (the Bill) as introduced to Parliament on 14 May 2026. It focuses on the important measures in the Bill concerning the publication of company directors' personal information on public registers maintained by the Australian Securities and Investments Commission (ASIC).

Since 2022, the Government has demonstrated a strong commitment to protecting the personal information of individuals, including through reforms to the *Privacy Act 1988* (Cth) and enhancements to the powers and resources of the privacy regulator, the Office of the Australian Information Commissioner (OAIC). Protecting an individual's personal information from public dissemination is recognised as key to combatting real – and growing – physical and cyber safety and security risks in the community. Earlier this year, ASIC removed directors' residential addresses from company searches on the recommendation of Australia's security agencies in the aftermath of the Bondi terror attack. This important change also protects victim-survivors of domestic and family violence and makes "social engineering" cyber-attacks more difficult. It is consistent with other measures to protect personal information across the community, such as removing residential address searches from "White Pages" telephone records.

The Australian Tax Office (ATO) estimates that there are more than 2.5 million company directors in Australia. The overwhelming majority are directors of small and family companies or not-for-profits. While aspects of the Bill are consistent with the Government's broader commitment to protecting the physical and cyber safety and security of these individuals, gaps and uncertainties remain. My recommendations for improving the Bill are set out below.

My observations concern:

- public access to the residential or electronic address of a person who has nominated an alternative address
- public access to the residential or electronic address of a person who has not nominated an alternative address
- the inclusion of officers' addresses in company searches and extracts
- public access to a director's date and place of birth, and
- the transition arrangements.

I conclude with some recommended changes to the Bill and the Explanatory Memorandum.

2 Public access – directors using an alternative address

The Bill amends s 205D(1)(b) so that it is open to any person to use an alternative address for service in a notice or application under s 5H(2), 117(2), 205B(1), (2) or (4) or 601BC(2). (For completeness, the list should also include ss 601CB(c), 601CE(c) and 601CV(1)(c).)

If a person uses an alternative address, then usually the public cannot inspect (among others):

- the notice lodged by the company setting out the person's residential address under s 205D(3) (s 1274(2)(a)(iaa)), or
- so much of a notice or application under subsection 5H(2), 117(2), 205B(1), (2) or (4) or 601BC(2) as sets out a person's usual residential address if the person takes advantage of paragraph 205D(1)(b) to use an alternative address (s 1274(2)(a)(iaaa)).

However, this is subject to an important qualification. The Bill gives ASIC a discretion to decide under s 1274AB(1) to disclose (including publish) the person's residential address after considering the matters listed in the subsection, despite them having nominated an alternative address.

Because of s 1274AB(2), the protection from public disclosure that otherwise applies in ss 1274(2)(a)(iaa) - (iaac) is removed. Under the current law, ASIC cannot override s 1274(2)(a)(iaa) which protects people who have nominated an alternative address for their safety or that of their family. Under the Bill, ASIC will be able to override the protection without even notifying the person affected.

It is not clear from the Explanatory Memorandum that this significant change was ever intended. Allowing ASIC to override the protections in (iaa) – (iaac) is extremely unsafe, as ASIC has no way of knowing why a person has requested an alternative address (for example, because publishing their residential address would put at risk their personal safety or that of members of their family). ASIC should not be given this broad discretion. Section 1274AB(2) should instead say, "Subsection (1) does not apply to information covered by paragraph 1274(2)(a)".

3 Public access – director not using an alternative address

For a range of practical reasons, it is likely that the majority of directors will not nominate an alternative address. This might be because they are not aware they are able to do so, or because they do not have access to a ready alternative.

AICD's policy view is that an individual's personal information – while of course available to ASIC and to other authorised users – should not be included on a public register for the reasons of physical and cyber safety and security discussed above. Personal information is defined in s 6 of the *Privacy Act 1988* (Cth); OAIC unequivocally treats a person's home address, email address, telephone number, and date of birth as personal information.

For many years the Australian Charities and Not-for-profits Commission (ACNC)¹ and the Office of the Registrar of Indigenous Corporations (ORIC) have adopted the policy position of not including officers' personal information on the public registers they maintain.

Currently, the Explanatory Memorandum to the Bill states at [2.99] that "the general approach will be that officers' usual residential addresses are not available to the public if the officer is using an alternative address". However, consistent with the Government's broader commitment to protecting the personal information of individuals, this should be the case for all directors, not just those who know that they may, or are in a position to, nominate an alternative address.

¹ This is a misnomer – the ACNC only registers charities and does not cover other not-for-profits. If a charity is a company registered with ASIC, historic information about its officers may remain on the companies register.

The Bill provides a (slightly clumsy) pathway to achieve this, but not a clear statement that this is the policy intent. Under the Bill, ASIC could give effect to this broader policy by a legislative instrument made under the new s 1274AC(1) that imposes the following restrictions:

(a) redact a person's residential address, electronic address and date and place of birth in documents lodged with ASIC, or in registers kept by ASIC, that persons other than authenticated persons may wish to:

- (i) inspect under subsection 1274(2); or
- (ii) search under subsection 1274A(2) or (3); or
- (iii) access under subsection 1274A(4);

(b) refuse inspection under subsection 1274(2) by persons other than an authenticated person of so much of a document lodged with ASIC that sets out a person's residential address, electronic address or date or place of birth.

Using this approach, ASIC could define "authenticated persons" to include, for example, lawyers, insolvency practitioners, and journalists (for an example of a journalism exception, see s 7B(4) of the *Privacy Act*). The categories of authenticated persons should, in my view, be restricted to specified occupations that are subject to licensing or other regulatory oversight and that have a legitimate need to access an individual's personal information in performing their functions. It should not include "community advocates" as suggested by the Explanatory Memorandum.

I note that the drafting in s 1274AC(1)(a) is somewhat clumsy – it would be better if ASIC's instrument-making power covered redacting a document or register "before it is made available to a specified class of persons to", rather than "that a specified class of persons may wish to".

To ensure that ASIC has a clear mandate to make an instrument to protect personal information in the way described here, it would be very helpful to change [2.98] and [2.99] of the Explanatory Memorandum. It could say, "While the general approach will be that officers' usual residential addresses, electronic addresses, or dates and places of birth are not available to the public, ASIC could use this power to permit disclosure of officers' personal information to lawyers, insolvency practitioners, auditors, journalists or other regulated occupations who have a legitimate need for it, if the risk-benefit test is met."

4 Including directors' personal information in company searches

The decision earlier this year to remove directors' residential addresses from company searches and extracts provided under s 1274A was an important measure to protect the physical and cyber safety and security of individuals and was supported by Australia's security agencies. The security conditions that prompted that decision have not changed.

It remains my view that an officers' address is not "prescribed information" for the purposes of ss 1274A(3) and (4) so it should not be included in company searches made or generated by data processor. This is true of residential addresses, alternative addresses and electronic addresses. "Prescribed register" and "prescribed information" are defined for this purpose in regs 9.2.01 and 9.2.02 of the *Corporations Regulations 2001* (Cth). No change to the Bill is required for ASIC to continue the current practice, although the Explanatory Memorandum to the Bill should be corrected to state that company extracts produced under ss 1274A(3) and (4) do not include officers' addresses.

Specifically, the statement in [2.23] of the Explanatory Memorandum that ASIC "may, however, disclose an officer's usual residential address or other registry information under its existing powers in section 1274A of the Act" is inaccurate because an officer's address is not "prescribed information" for these purposes.

5 Directors' dates of birth

Linking the Director ID to the ASIC registers under the Bill removes the need for ASIC to collect information about a director's place and date of birth, which is done to confirm their identity. Directors' identity is now confirmed in the Director ID process. ASIC should not publish this information because of the obvious cyber-security threat. It would be helpful to amend items 1, 2 and 8 of Sched 1, Pt 1 of the Bill to read: "Omit 'and the date and place of birth', substitute 'and the director identification number'".

6 Transition arrangements

Assuming Sched 2 Pt 2 of the Bill commences on 1 July 2027, the transitional position until then is:

- ASIC should continue not to include officers' addresses in company searches and extracts under s 1274A(3) and (4), because it is not "prescribed information". No law change is required for ASIC's current approach to continue.
- Directors can continue to nominate an alternative address under the existing s 205D(2), using the electoral roll procedure in s 205D(2)(a) or (for people not on the electoral roll) the pathway in s 205D(2)(b).
- ASIC must not make public the s 205D(3) document containing the residential address of a director who has an alternate address, because of s 1274(2)(iaa). (Under the existing law, the director's residential address does not appear in notices or applications under s 5H(2), 117(2), 205B(1), (2) or (4) or 601BC(2). However, it will appear in these notices or applications lodged after the commencement date.)
- ASIC cannot redact documents that contain a director's residential address before they are inspected under s 1274(2). This is particularly relevant if a director does not have an alternative address under the current system, or if there are historic documents on the register containing their residential address that were lodged before the director provided an alternative address.

From 1 July 2027:

- ASIC's new power under s 1274AB (to permit access) applies to ASIC disclosures on or after that date, whether the information was obtained before, on or after that date. This is provided for in s 1745 in the Bill. So, for example, it would permit the disclosure of information in a s 205D(3) notice lodged before commencement, which is currently prohibited by s 1274(2)(a)(iaa).
- ASIC's new power under 1274AC (to restrict access) will apply from that date in relation to information or documents lodged with, or otherwise obtained by, ASIC before, on or after then. This is provided for in s 1746 in the Bill.

7 Recommended changes

To ensure the Bill reflects the Government's broader commitment to protecting the personal information of individuals and preserves the important change made earlier this year to ASIC company searches and extracts, the following changes are recommended:

- Amend ss 205D(1) and 1274(2)(a)(iaa) in the Bill to cover notices and applications under ss 601CB(c), 601CE(c) and 601CV(1)(c) also.
- Amend s 1274AB(2) in the Bill to read: "Subsection (1) does not apply to information covered by paragraph 1274(2)(a)."

- Change [2.98] and [2.99] of the Explanatory Memorandum to say: “While the general approach will be that officers’ usual residential addresses, electronic addresses, or dates and places of birth are not available to the public, ASIC could use this power to permit disclosure of officers’ personal information to lawyers, insolvency practitioners, auditors, journalists or other regulated occupations who have a legitimate need for it, if the risk-benefit test is met.” The reference to “community advocates” should be removed.
- Correct [2.23] to say: “Officers’ addresses and other personal information are not “prescribed information” included in a company search or extract made under s 1274A(3) or (4) of the Act.”
- Amend items 1, 2 and 8 of Sched 1, Pt 1 of the Bill to read: “Omit “and the date and place of birth”, substitute “and the director identification number””.

Please let me know if you would like to discuss these recommendations further.

A handwritten signature in blue ink, reading "Johnson Winter Slattery".