

COMMERCIAL LEASE ASSIGNMENT IN NEW SOUTH WALES

When purchasing or selling a business in New South Wales, it is common to transfer the lease for the business premises. This process, known as lease assignment, involves changing the tenant listed on the lease agreement from the seller (assignor) to the buyer (assignee). This factsheet outlines the details of commercial lease assignments.

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WHY IS IT IMPORTANT?



- **Ensures business continuity:** The buyer can keep operating from the same location
- **Often required:** It is typically a condition in the Business Sale Agreement (BSA)
- **Landlord involvement:** The property owner must consent to the change

KEY STEPS IN THE PROCESS

1. REVIEW THE EXISTING LEASE



- **Buyer:** Understand your future obligations, rent details, and renewal options
- **Seller:** Familiarise yourself with the assignment clause in your lease

2. NOTIFY AND SEEK LANDLORD'S CONSENT



The seller will request the landlord's consent for the assignment.

3. MEET LANDLORD'S REQUIREMENTS



The landlord may ask the buyer for financial statements, business references, increased security, or personal guarantees.

4. REVIEW AND SIGN ASSIGNMENT DOCUMENTS



- The main document (to be prepared by the landlord's solicitor) is the Deed of Consent to Assignment of Lease
- If the lease is registered a Form O1TL Transfer of Lease will be involved

5. COMPLETE PRE-SETTLEMENT TASKS



- **Seller:** Pay the landlord's legal costs for the assignment
- **Buyer:** Provide security and insurance certificates to the landlord

6. POST-SETTLEMENT DUTIES



- Handle stamp duty on assignment documents
- If the lease has been registered, register the Form O1TL Transfer of Lease on the title via PEXA

TIPS FOR A SMOOTH PROCESS



- **Start early:** The process takes 2–4 weeks. Engage with the landlord early and provide information promptly.
- **Communicate clearly:** Maintain regular communication to keep all parties informed throughout
- **Be prepared:** Gather documents as soon as the BSA is signed
- **Review thoroughly:** Understand all terms and obligations in the lease and assignment documents
- **Financial readiness:** Ensure you can meet all financial obligations, including any required security and where required bank guarantee can be prepared with specific wording required by the landlord.