

Managing business transactions during COVID-19

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Presenting Wednesdays with Redchip Webinar

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Peter is a director of the corporate transaction team, regularly advising on corporate and commercial transactions of all sizes. He also heads up the franchising, licensing and distribution side of our practice.

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Whether you're selling a business, merging organisations or acquiring a new business or property, Nick ensures his clients' transactions are effected with optimal commercial results and minimal risk.

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Business Exits

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What does business exit mean?



Involuntary	Voluntary
<ul style="list-style-type: none">• Sickness/death• Insolvency• Retirement without succession plan• Downturn in the market• Loss of key customer	<ul style="list-style-type: none">• Selling out completely• Selling down partly• Management buyout• Equity investment

Remember:

A sunset over the ocean. The sun is a large, bright yellow-orange circle, partially obscured by dark, silhouetted clouds. The sky is a gradient of orange and yellow, and the ocean is dark and textured in the foreground.

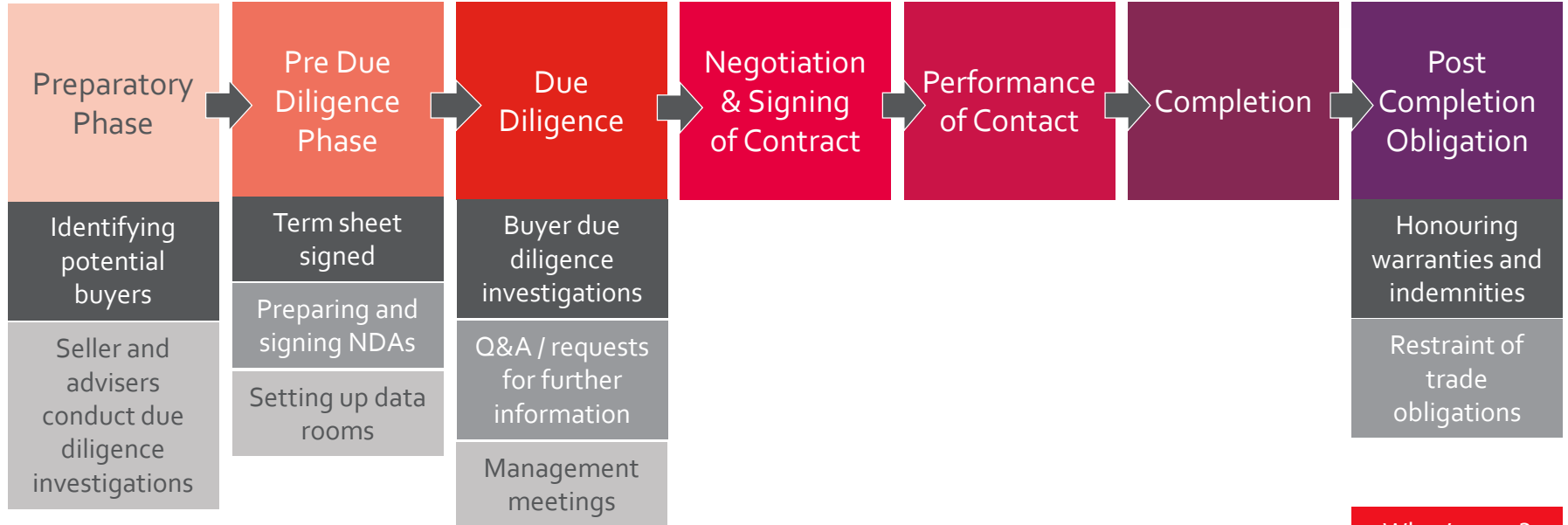
**Exit is a natural part of
the business lifecycle**

What does a business exit look like?



- Asset sale or share sale
- Sale to third party
- Sale to employees
- Progressive sell down
- Sale with earnout

What is the process?

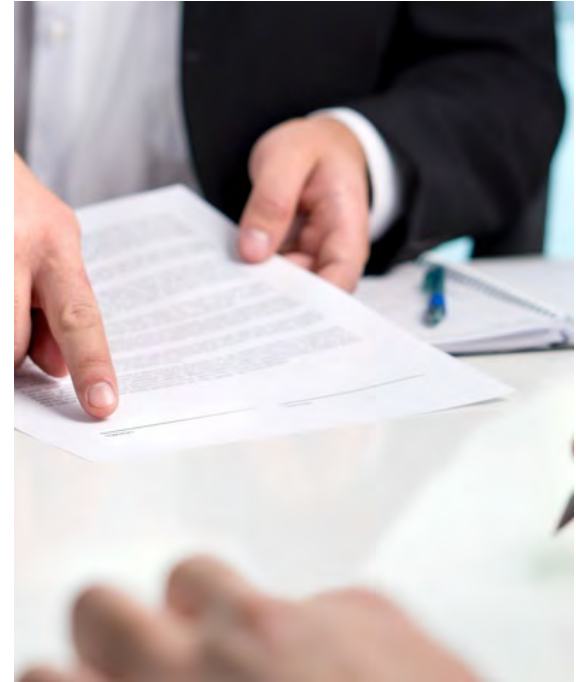


What's next?

An adviser's role

- Focus the client – what a sale looks like for them
 - \$ in hand
 - Tax outcomes
 - Life after sale
- Rally a team
- Proactively start the conversation early – no “*renovation rescue*”

BUT – don't take your eyes off the ball



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Seven steps for sellers



Step 1 - Have a plan



Strategic plan

- Articulate purpose and direction of the business
- Buyers are buying the future of the business so map it out

Sale ready plan

- Tactical priorities
- Who does what when?

Step 2 - Get the numbers right

- Pretend you are advising the buyer – what do you want to see?
- Past, present and future numbers
- Monthly management reports
- Up-to-date balance sheet (clear out lifestyle assets)
- Lay it all out for the buyer



Step 3 - Implement a leadership team



- No one-man show (unless it's a true owner-operator business)
- Can you demonstrate a robust ownership succession plan?
- Would a non-executive director add some management firepower?

Step 4 - Highlight the blind spots

- Revenue/product concentration
- Unresolved or pending disputes or litigation
- Incomplete records and unsigned contracts
- Articulate to a buyer any obvious business risks and how they are being managed
- Don't give the buyer ammunition to negotiate price down



Step 5 - Get the structure right



- Are the assets in the right entity?
- What are the tax outcomes?
- Restructure?
- Ties into the decision of asset sale vs share sale

Step 6 - What do buyers want to see?

Plan in advance – get ready for show and tell

- Seller due diligence – identify and clean up issues before the buyer comes along
- How to manage the sharing of information (not by email)
- Lead this process with the both the seller and the buyer
- Make sure documents support the value drivers

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Step 6 - What do buyers want to see?



- Understanding the quality of historical earnings
- Key customer and supplier relationships
- Working capital and capex requirements
- Strength of the management team
- Employees
- Technology and intellectual property issues
- Other issues that may be specific to business/industry

Step 7 - Put the team together

- Accountant
- Financial adviser
- Lawyer
- Deal adviser

Get on the same page early



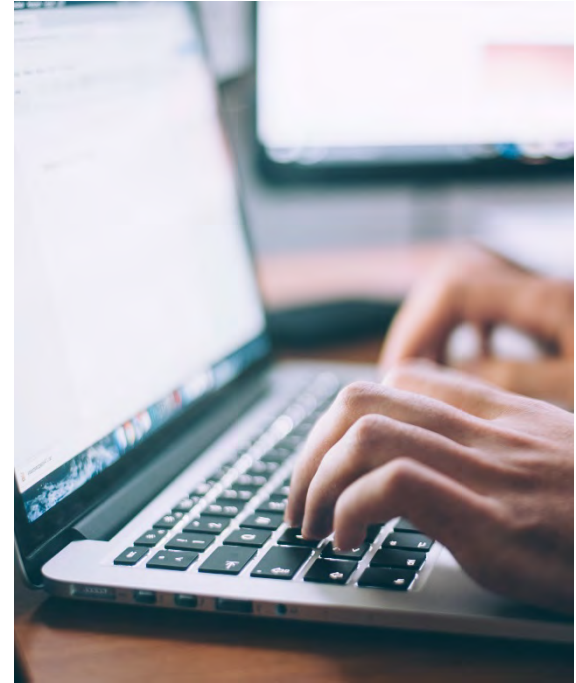
JobKeeper and Business Sales

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What is the JobKeeper scheme?

- 30 March 2020 to 27 September 2020
- \$1,500 per fortnight per eligible employee for eligible businesses
- **Turnover Test:** where turnover for a month in 2020 is less than turnover for the same month in 2019 by at least 30%
- **Employee Eligibility:** employed at 1 March 2020, over 16 years old, employed full/part time or casually employed for longer than 12 months, Australian resident
- **Wage Condition:** employer must pay employee at least \$1,500 per fortnight



What happens if the business changes hands?

Employees in standard business sale

1. Prior to completion, the Purchaser gives employees offers of employment (terms no less favourable)
2. Employees can accept offer (transferring employees) or decline offer (non-transferring employees)
3. Transferring employees are terminated by the Seller on completion and immediately commence employment with the Buyer

Employees employed in the business remain eligible employees even if the business changes hands!

JobKeeper due diligence



Issues

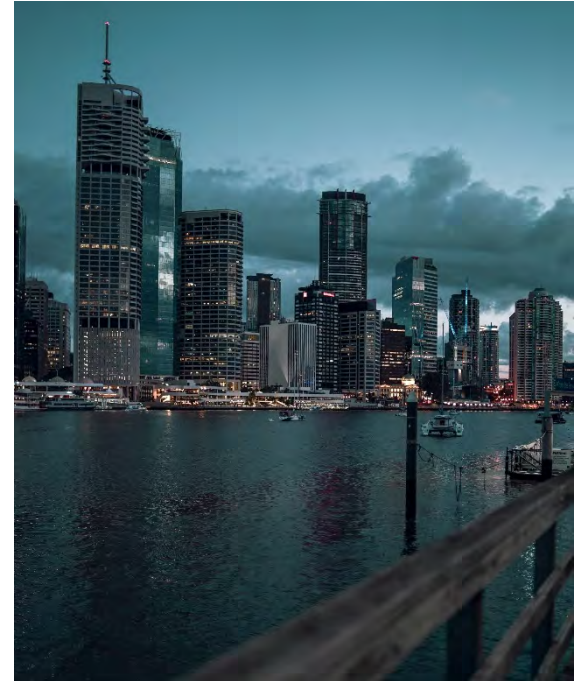
1. Repayments and interest
2. Record keeping obligations
3. Joint liability

Solutions

1. Inspect business records
2. Warranties
3. Indemnities

Business sales and rent relief

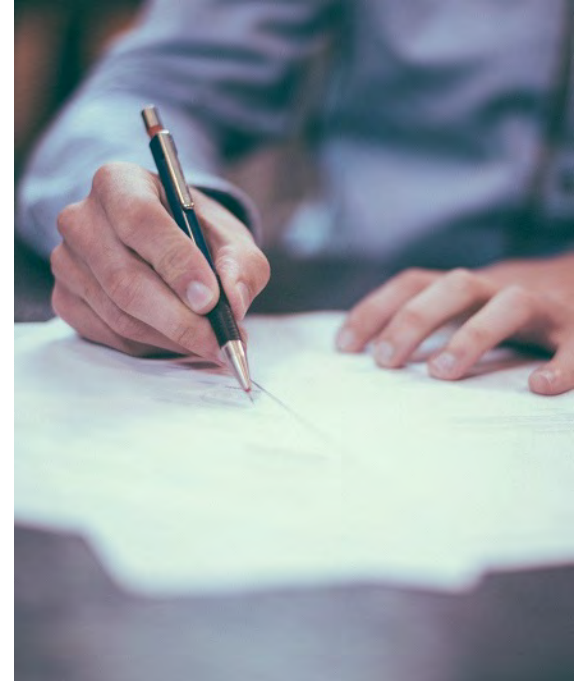
- Eligible for JobKeeper = Eligible for rent relief
 - No mandatory relief amount or formula
 - Guidelines and dispute resolution only
- ✓ Finalise and document rent relief
- ✗ Complete sale while negotiations are pending



COVID-19 document execution

- ✓ Sign Deeds electronically
- ✓ Witnessing via audio-visual link
- 🕒 Expires on 31 December 2020

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Questions?

Please send them through
using the Q&A section

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Thank you for tuning in

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NEXT WEBINAR – WEDNESDAY 19 AUGUST

Asset Protection

