

# Transferring Management Rights – The Basics

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*There's a tried and tested process for transferring Management rights.  
Whether you are a buyer or a seller it's wise to follow that process.*

## Offer and Acceptance

- Usually in the form of a non-binding offer and acceptance document.
- The document will contain a summary of the key terms of the proposed sale including purchase price, settlement date and time for satisfaction of each one of the major conditions.
- A holding or initial deposit is sometimes requested.

## Contracts

- The Agent or Seller's Solicitors will usually prepare the contracts. This can take some time, so be patient.
- Each of the buyer and seller will check the contracts before they are executed, including to ensure that they reflect the offer and acceptance.
- An initial deposit is almost always required on execution.

## Verification of financial records

- The buyer's accountant will undertake an investigation process to produce a report.
- The report is to verify whether the business income is as the seller has stated in the contract.
- If the report verifies the stated income, within a reasonable margin of error, then typically there will be no renegotiation of the contract terms.
- If the buyer is not satisfied that the income is verified to the amount stated by the seller, then the buyer can terminate.
- The verification is not an audit and relies on information provided by the seller.

## Legal due diligence

- Legal due diligence goes to both the purchase of the manager's unit and the management rights business.
- Due diligence on the manager's unit includes all of the usual searches and enquiries relevant to buying a lot in a community title scheme.
- Legal due diligence on the business includes a range of matters including the management rights agreements, their grant and terms.
- Special or unique issues to the community titles scheme, or the management rights, are also addressed at this step.
- If the buyer is not satisfied with the results of the legal due diligence then they may terminate the contract.
- It is more common for the parties to agree on a list of issues to be addressed.

*Stratum Legal are happy to assist you with your proposed transfer or any questions that you may have in relation to the process.*

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### Finance approval

- After legal due diligence the buyer will seek final finance approval from their chosen financier. The application for approval will have been made many weeks before, shortly after the contracts were entered into.
- Whether the buyer has approached a financier directly or through a broker, most financiers will take security over the management rights agreements.
- If taking security over the management rights agreements, most financiers will seek some information from the buyer's lawyers.
- If finance approval is not given on terms satisfactory to the buyer, then the buyer may terminate the contract.
- If the buyer is satisfied to proceed with the offer of finance received, then typically the payment of the balance deposit will be required at this stage.

### Body Corporate approval

- The Body Corporate's consent to the transfer of the management rights is required.
- The Body Corporate has 30 days from delivery of all of the information reasonably necessary to determine the application for consent to transfer.
- The application to the Body Corporate should be prepared and ready so that it can be sent as soon as possible after the contracts are otherwise unconditional (with respect to verification of financial records, legal due diligence and finance approval).
- Some approvals can be given by the committee, and others will be necessary to take to a general meeting; for example if amendments to the management rights agreements are required.
- In addition to giving consent to the transfer of the management rights, some buyers may also request body corporate approval for other issues such as minor renovations to the manager's unit or approval for their pet.

### Settlement

- Settlement usually takes place at the end of the month following the giving of the body corporate consent.
- Most contracts contain a provision that if Body Corporate consent is delayed, there is an automatic extension to the settlement date of 30 days.
- On settlement both the buyer and seller are onsite to conduct the handover/takeover, typically with their accountants or bookkeepers.
- Usually 7 days up to settlement and 7 days after settlement the seller provides tuition and assistance to the buyer (teaching the buyer how to conduct the management rights).

### Conclusion

The above is only a basic outline of the process of transferring management rights. We are happy to assist you with your proposed transfer or any questions that you may have in relation to the process.

## MANAGEMENT RIGHTS TRANSFER CHECKLIST

Offer and Acceptance

Contracts

Verification of financial records

Legal due diligence

Finance approval

Body Corporate approval

Settlement