

Coronavirus Alert: Checklist for landlords impacted by COVID-19 rent relief package

14 April 2020

		Response
1	<p>Does the code apply? ie:</p> <p>(a) Is the tenant entitled to apply for JobKeeper (30% turnover reduction); and</p> <p>(b) Does the tenant have less than \$50m annual turnover.</p> <p>If you responded "no" to either question, it is unlikely the Code will apply. But you should check the situation with your lawyer.</p> <p>If you responded "yes", please proceed.</p>	
2	<p>Is the tenant trading?</p> <p>If "yes", what is the tenant's turnover reduction?</p> <p>The landlord will require turnover figures from the tenant for the current period and the same period last year. The tenant is entitled to a rent reduction equivalent to its percentage drop in turnover.</p> <p>This may be considered on a rolling monthly basis (in arrears) during the COVID-19 period. Alternatively, the landlord and the tenant could agree on a fixed reduction based on turnover figures to date for the duration of the COVID-19 period.</p>	
3	<p>If the tenant is not trading, when did it cease trading?</p> <p>The tenant is entitled to a 100% rent reduction during the COVID-19 period. The tenant is also entitled to a 100% outgoings reduction whilst it is not trading.</p>	
4	<p>Have you received any reduction in statutory charges (rates, land tax etc) or insurance?</p> <p>If "yes", then the savings must be passed on to tenants who continue to trade by way of reduced outgoings.</p>	
5	<p>Negotiate a framework for rent reduction with each tenant</p> <p>Ideally comprising a maximum 50% rent waiver (unless the tenant agrees to a lesser percentage) and 50% rent deferral for the COVID-19 period.</p>	

6	<p>Negotiate a payback period for the rent deferral with each tenant:</p> <p>(a) Commencement – ideally, immediately after the end of the COVID-19 period;</p> <p>(b) Amortisation period – ideally, as short as possible (however, unless the tenant agrees, it must be the greater of 24 months and the balance of the lease term).</p>	
7	<p>Rent review</p> <p>Any rent review during the COVID-19 period is to be deferred to after the end of the COVID-19 period.</p>	
8	<p>Does the tenant want to extend the term of the lease?</p> <p>If "yes" then:</p> <p>(a) What is the period?</p> <p>(b) What is the rent?</p> <p>(c) When and how is the rent to be reviewed?</p> <p>(d) Who pays the costs?</p> <p>An extension should be formally documented and, if the lease is registered, then an amendment of the lease should be registered.</p> <p>If the lease is governed by the <i>Retail Shop Leases Act 1994</i> then the landlord must comply with its disclosure obligations as if the extension was a new lease.</p>	
9	<p>Terms of any agreement</p> <p>Ensure the agreed terms are recorded in writing and acknowledged in an appropriate agreement.</p>	

This information sheet is intended to provide a general summary only and should not be relied on as a substitute for legal advice.

Thynne + Macartney is working with landlords to understand the framework and to assist them to achieve best outcome.

Should you have any questions or wishes to discuss your specific situation, we are available to work through the steps to determine how the framework will apply to you.



There are a number of practical steps that all businesses should be considering as they plan for the next few months.

Thynne + Macartney's team will be producing further updates for our clients as the situation evolves.

To receive copies of our further updates, sign up [here](#) or visit our [website](#).

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We're with you.

About Cameron Graham

Cameron has over 20 years' experience in property law specialising in commercial leasing, working primarily in retail leasing. Working alongside his clients, Cameron develops a methodical process to their leasing requirements to get things right and has developed efficient processes to protect his clients and simplify leasing transactions. He helps clients navigate decisions relating to the allocation of risk as he believes that his clients can make their best commercial decisions by understanding the level of risk involved.

Working collaboratively with those on the other side of a matter to ensure transactions do not get held up by the small details causing unnecessary expense and achieving little for either side, Cameron ensures a successful outcome for his clients by looking at transactions not just technically but also from a practical and commercial point of view.



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About Aaron Webb

A Queensland Law Society Accredited Specialist in Property Law (Qld), Aaron has over 20 years' experience in property law. Specialising in acquisitions and disposals of commercial and retail properties, and commercial and retail leasing, Aaron has expertise in structuring contracts for new projects and re-developments, strata titled developments, and property matters involving freehold and other tenure whether it be leasehold, deed of grant on trust, reserves or trustee leases.

His clients include property developers, business owners, property investors, landlords and tenants, large not-for-profit organisations, churches, retirement village operators, property owners and individuals. Aaron authors the "Leasing Risk Tools" for Lexon Insurance, the primary insurer of legal firms in Queensland.



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About Sue Maxwell

Sue has been involved in many successful and high-profile developments and transactions in Queensland during her 20 years advising on commercial and property transactions. Her clients include SMEs, property developers, investors, start-ups, businesses, property owners, financiers and commercial tenants.

Sue is a member of the Queensland Property Development and Community Management Committee of the Urban Development Institute of Australia (UDIA).



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About Thynne + Macartney

A law firm with a history of 127 years, Thynne + Macartney has survived World Wars, the Great Depression, Spanish and other flus, recessions and financial crises.

This too will pass and will thrive as we always have – by prioritising our clients, offering support through the challenges ahead and working together to find the best possible outcomes and solutions.

Thynne + Macartney – proud of our history, excited by our future,

We're with you.