MADSEN PROPERTY

Helping industrial clients since 1982

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Industrial Leasing Guide

Leasing guide for lessors and lessees

A lease can move quickly once commercial terms are agreed, but delays often happen because practical items are left too late. This guide covers the main issues both sides should think about early.

1. Start with clear commercial terms

- **Lessors:** Be clear on rent, outgoings, lease term, options, reviews, incentives, works, handover condition and security before lease documents are prepared.
- **Both sides:** Record the agreed terms in writing so the solicitor has a clear base to work from.

2. Bank guarantees and security

Most industrial leases require security. This may be a bank guarantee, cash deposit, director guarantee or another agreed form of security. The exact requirement should be confirmed early.

- If a bank guarantee is required, the lessor's solicitor should provide the wording or approved form that must be used.
- Banks can be particular about wording. Small changes can cause a guarantee to be rejected or delayed.
- A bank guarantee can take a few weeks to organise, especially where companies, trusts, finance approval or internal bank processes are involved.
- The premises may not be handed over until the lease, security, upfront payments and insurance are in place. Lessees should start the bank guarantee process as soon as possible.

3. Outgoings and occupancy costs

- Outgoings may include council rates, water, insurance, body corporate costs, management fees, fire services and land tax where recoverable under the lease.
- Both sides should understand whether outgoings are estimated, paid monthly, reconciled annually or on-charged as invoices. The lessor should provide the best available information, but estimates can change.

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4. Before handover

- **Lessors:** Confirm the premises is ready, agreed works are complete or documented, keys and access items are available, and any required compliance items are understood.
- **Lessees:** Arrange insurance, utilities, access, fit-out approvals, racking approvals and move-in timing early.
- **Both sides:** Confirm the lease is signed by the required parties. Confirm rent in advance, deposits, bank guarantees and any other agreed upfront requirements are in place before handover. Take photos or record the condition at the start. This can help avoid arguments at the end of the lease.

5. AML/CTF and identity checks

Standard industrial leases of 30 years or less are generally not treated the same as property sales for AML/CTF purposes. AUSTRAC's current real estate guidance focuses on brokering the sale, purchase or transfer of real estate and excludes leases of 30 years or less from the relevant definition of real estate.

- That said, agents, solicitors, lessors, financiers or insurers may still require identification, company, trust or authority documents as part of their own processes.
- Long leasehold or unusual arrangements should be checked with legal advisers, as different rules may apply.

6. Practical industrial questions

- Can trucks enter, turn and load safely? Is container set-down required?
- Is there enough power, clearance, hardstand, office area, parking and access?
- Will the intended use require council approval, trade waste approval, signage approval or other consent?

General note: This guide is general information only. It is not legal, financial, tax, building, town planning, environmental or insurance advice. Every lease and property is different. Lessors and lessees should obtain their own advice before signing documents or committing to works.