

## Are you investment ready?

In every successful business, there comes a time when it needs to grow. That growth could occur organically or, as is often the case, investors are sought to inject further capital or buy the business outright. Those investors could be external to the business, internal as with a management buy out, or a combination of both.

The ease with which a business can attract investors will depend on many complex factors. One of these is being investment ready.

Being investment ready ensures a business is in the best position possible to attract investors and deal with the myriad legal, financial, operational and commercial questions they will ask.

This factsheet covers some of the steps to becoming investment ready.

### Due diligence

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Due diligence is often spoken about in the context of buying into a business or taking over a company. However, undertaking internal due diligence is a fundamental part of becoming investment ready. Undertaking this form of 'self-analysis' and ensuring due diligence material is well organised and comprehensive offers the following benefits:

1. Reduction of management time and external consultant costs in preparing due diligence files.
2. Reduction in the overall time and cost of the investment transaction by enabling investors and their advisors to focus on the evaluation, rather than the collection, of due diligence material.
3. Potential reduction of the scope of warranties and indemnities prospective investors may require.

### Management

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There are some basic management practices that will make a business more attractive to investors. These are as follows:

1. Is there an up-to-date business plan that articulates the objectives of the business and its strategic direction?
2. What makes the business valuable and how will that value be sustained?
3. Do procedures exist to allow proper and accurate reporting of an entity's financial position?
4. Is the structure of the enterprise suitable for outside investors?

### Risk

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Just as every investment carries risk, every business has risks it inherently faces. Risk identification and management are vital in the day to day operations of a business and even more so when capital investment is being sought. Some legal and commercial risks that arise in every business are likely to include the following:

1. Currency of key contracts with suppliers, purchasers and service providers.
2. Ongoing disputes or liabilities.
3. Existence of appropriate insurance.
4. Regulatory and legislative compliance, particularly privacy, OHS, trade practices and consumer protection laws.

### Ownership agreements

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Even a business with only two owners should have a formal agreement to determine the fundamental elements of running the business—responsibilities for management and operation, voting power, ongoing funding, profit distributions, changes in control, death or incapacity, restraints of trade, how to deal with disputes and defaults plus clear and transparent exit strategies.

Having a formal shareholders or partnership agreement in place, to which new investors must become bound, ensures there is a steady framework around which the business operates. Of course, some investors will want to have their own say as to how such agreements should read, but you are in a far better position if you have one in place to start with than nothing at all.

## Intellectual property

For many businesses, their most valuable assets are ones that can't be touched, seen or heard—those intangibles which provide so much value to a business enterprise.

Can you exhaustively list all your intellectual property? Is it protected by registration, such as trade marking? Is it even owned by the entity seeking investors?

Addressing these questions is a good start to painting a clear and easily understood picture of your intellectual property assets.

## Be prepared

One of the most important factors in becoming investment ready is the allocation of sufficient time and resources of management and external advisors to ensure the business is structured, managed and presented to potential investors in the best possible light. The amount of time and work involved with these tasks should not be underestimated.

## Checklist

McMahon Clarke Legal has prepared an investor readiness checklist. A summary of its contents is available on request.



**Langton Clarke**  
Partner

07 3239 2926  
langton.clarke@mcmahonclarke.com

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